

1976 S.C. Op. Atty. Gen. 58 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4254, 1976 WL 22874

Office of the Attorney General

State of South Carolina

Opinion No. 4254

February 10, 1976

*1 The Honorable James B. Edwards

Governor

Columbia, South Carolina

Dear Governor Edwards:

Your letter of January 28, 1976, requests my opinion on the following question:

‘The question has arisen as to what actions would be necessary if the State were to end the Fiscal Year 1975–76 with a deficit—whether taxes would have to be raised or expenditures could be cut in the next Fiscal Year to absorb the deficit.’

I advise that the Constitution requests in Article X, Section 2 thereof, that:

‘The General Assembly shall provide for an annual tax sufficient to defray the estimated expenses of the State, and whenever it shall happen that the ordinary expenses of the State for any year shall exceed the income of the State for such year, the General Assembly shall provide for levying a tax for the ensuing year sufficient—to pay the deficiency of the preceding year—.’

This constitutional provision requires that adequate provision be made each year for the ordinary and current expenses of the State. Rule 5.3 of the House requires that every General Appropriations Bill for the ordinary expenses of the State before presentation to you shall have attached thereto a certification from the Comptroller General stating that the total of the appropriations therein provided for is not in excess of the estimated total revenue of the State for such purposes. Additionally, if, during the course of a fiscal year, it should appear that revenues available will not be sufficient to pay the appropriations in full, the State Budget and Control Board has the authority to direct such reductions of appropriations as may be necessary to prevent a deficit. Sections 98 and 107 of the current General Appropriations Act.

The net effect of this is that the General Assembly is required by the constitutional provision to present a balanced budget and if a deficit should occur, it is required to make good such deficit at the next ensuing session of the General Assembly. Thus, if a deficit should occur at the end of the fiscal year 1975–76, the General Assembly, pursuant to the constitutional provision set forth above, is required to make good that deficit.

Powers given to the Budget and Control Board by Sections 98 and 107 of the General Appropriations Act are designed to forestall any decrease of income that may occur by the reduction of the appropriations made for that year.

If a deficit Appropriations Act, despite the constitutional provision, is presented, there is, in my opinion, no legal recourse available to compel the General Assembly to act otherwise, except the exercise of the veto power.

Very truly yours,

Daniel R. McLeod

Attorney General

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