

1978 WL 207614 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 26, 1978

*1 Honorable Earle E. Morris, Jr.
Comptroller General

MEMORANDUM

A conference was held on Tuesday, May 23, 1978, concerning the duties and responsibilities of the Treasurer of Aiken County to disburse county funds. It was conceded that the treasurer is to receive all funds and the issue is whether the treasurer is to disburse “lump” sums to the County Finance Director who then will redistribute the same to the various claimants, or whether the treasurer is to disburse upon warrant of the finance director to the claimant.

We do not find a statutory definition of a county treasurer nor a case where our courts have defined the office. Webster's New Collegiate Dictionary, however, defines a “treasurer” as:

“One trusted with charge of a treasure or treasures; specif: a. A guardian of a collection of treasures; a curator. b. An officer who receives the public money, takes charge of it, and disburses it upon orders made by the proper authority. c. A similar official in charge of the funds of an organization, society, or corporation.” (Emphasis added)

“Treasury” is also defined by the same authority as:

“1. A place in which stores of wealth are deposited; esp. a place where public revenues are deposited, kept and disbursed; hence, the place of deposit and disbursement of any funds. 2. That department of a government which has charge of the finances. 3. A repository for treasures; also, a thesaurus.” (Emphasis added)

Black's Law Dictionary defines a “treasurer” as:

“An officer of a public or private corporation, company, or government, charged with the receipt, custody, and disbursement of its moneys or funds. See State v. Eames, 39 La. Ann. 986, 3 So. 93; In re Millward-Cliff Cracker Co.'s Estate, 161 Pa. 167, 28 A. 1072; Jones v. Marrs, 114 Tex. 62, 263 S. W. 570, 574.” (Emphasis added)

The Supreme Court of North Carolina in the case of Gardner v. Board of Trustees, etc., 226 N. C. 465, 38 S. E. 2d 314, held that:

“A treasurer is one in charge of a treasury, and a treasury is a place where public funds are deposited, kept and disbursed. Webster.” See also Words and Phrases, Volume 42A.

The treasurer would under the above collect, deposit, keep and disburse the public funds. The procedure for disbursement is that provided by Chapter 13 of Title 4 of the 1976 Code of Laws, as amended or modified by Home Rule. Section 4-13-110 thereof provides:

“It shall not be lawful for any county treasurer to pay an order of the governing body of the county unless drawn in conformity with § 4-13-100. The Comptroller General, in case of any violation of the provisions of said section which may come or be brought to his notice, shall report the offender to the Attorney General for prosecution and to the Governor for dismissal.”

Special provisions existed for payment of claims against Aiken County, however, we do not find where such provisions amended or modified the above. (See § 14-781, et seq. of the 1962 Code of Laws.) These special provisions were however repealed by Act 1078, Acts of 1972, that provided for a system of government for Aiken County. Section 9 of that Act vested certain powers in a Board of Commissioners, among which are:

*2 “(5) To prepare the annual county budget and make appropriations necessary for the corporate purposes and the operations of the county as now set forth in the annual county supply act. * * *.”

“(6) To provide for the receipt, custody, allocation and disbursement of funds accruing to Aiken County.”

“(13) To supervise and regulate the various departments of the county, except that the duties and functions now provided by law for all of the elected offices of the county, except as otherwise provided herein, and including the Family Court and Judge, Master, Auditor, Treasurer, Clerk of Court, Sheriff, Probate Judge, Magistrates and Coroner, shall not be altered, and the power of such officers to designate the duties of personnel made available to them shall not be infringed.”

The provisions of paragraph (13) were reenacted and enlarged by Act 1497, Acts of 1972.

Under settled rules of statutory construction the above provisions are to be construed together and harmonized, if possible. [Independence Ins. Co. v. Independent Life & Acc. Ins. Co.](#), 218 S. C. 72, 61 S. E. 2d 399. Should, however, such be impossible, then the latter provision and Act control. Here the provisions can in our opinion be harmonized and the Board of Commissioners could make limited provisions for preparing and submitting the warrants to the treasurer. This is to say that the Board under the above provisions may have had the authority to provide for another officer to do the things required in § 4-13-100, however, the Board was expressly forbidden by the 1972 Act from altering the duties of the treasurer. The Board of Commissioners and the powers conferred have now been replaced by “Home Rule” and the powers of the present governing body are found in [Section 4-9-30 of the 1976 Code](#) and include:

“(8) to provide for an accounting and reporting system whereby funds are received, safely kept, allocated and disbursed;”

Such powers are however limited by the following language:

“Under each of the alternate forms of government * * * each county government within the authority granted by the Constitution and subject to the general law of this State shall have the following enumerated powers * * *.” (Emphasis added)

Again under Home Rule where the office of supervisor no longer exists, the governing body is empowered to amend or modify the requirements of § 4-13-100, however § 4-13-110 requires an order to the treasurer from a proper official for the disbursements of county funds. This procedure conforms in most respects to the procedure generally used.

“County warrants are instruments, generally in the form of bills of exchange or orders, drawn by an officer of the county upon its treasurer, directing him to pay an amount of money specified to the person named therein, to the order of such person or to bearer.” 14 Am. Jur., [Counties](#), Sec. 73, p. 233.

*3 Such is in our opinion the procedure expressed or implied by the general law of this State and to require the treasurer to disburse county funds in a lump sum would conflict with Chapter 13, Title 4, specifically § 4-13-10.

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