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Office of the Attorney General

State of South Carolina

June 30, 1978

***1 SUBJECT: Education; School Districts**

Under the provisions of § 5(4)(c) of the South Carolina Education Finance Act of 1977, school districts whose salary schedules are below the state minimum salary schedule on July 2, 1978, may eliminate the difference between the districts' salary schedules and the state minimum salary schedule proportionately at the same rate and over the same time period that the school districts eliminate the difference between current funding and full funding for the foundation program (subject to the overriding provisions of § 5(4)(a) of the Education Finance Act).

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QUESTION:

Under § 5(4)(c) of the S.C. Education Finance Act, must an affected school district increase its salary schedule by the same percentage that its foundation funding is increased; or may it close the gap between the district's salary schedule and the state minimum salary schedule at the same rate that the gap between current funding and full funding of the foundation program is closed?

STATUTES AND CASES:

60 STAT., Act No. 163, §§ 2(4), 3(1), 4(3), 5(4)(a) and 5(4)(c) (1977) cited as 'South Carolina Education Finance Act of 1977';

[Helfrich v. Brasington Sand & Gravel Co.](#), 268 S.C. 236, 233 S.E.2d 291 (1977);

[State v. Gilliam](#), 208 S.C. 126, 37 S.E.2d 299 (1946);

[City of Spartanburg v. Leonard](#), 180 S.C. 491, 186 S.E. 395 (1936);

[Varn v. Beattie](#), 171 S.C. 424, 172 S.E. 442, 444 (1934);

1977 S.C. Senate Jornal, p. 1419;

2A Sutherland Statutory Construction, § 47.16, p. 101 (1978 Cum.Supp.);

82 C.J.S., Statutes § 323, p. 608 (1953).

DISCUSSION:

Section 5(4)(c) of the South Carolina Education Finance Act of 1977 (60 STAT. Act No. 163) provides:

Any school district whose salary schedule is below the State minimum salary schedule at the time of the implementation of this Act may phase salaries to the required minimum salary schedule at no less than the same rate of increase at which the district phases to the full funding of the defined minimum program.

This particular proviso of Section 5 of the South Carolina Education Finance Act of 1977 was not a part of the original bill introduced in the House of Representatives. See Bill No. H.2385, introduced February 2, 1977, Printer's No. 349-H. As a result, there is no reference to this particular proviso in the Report of the Governor's Committee for the Equalization of Education Finance, submitted March 10, 1976. Nor is there any comment explaining the purpose of this proviso in the legislative history. See 1977 S.C. House Journal, Vol. 1, pp. 1263-64; 1977 S.C. Senate Journal, p. 1419.

Two conflicting interpretations have been made of the meaning of this particular proviso, specifically concerning the language, 'may phase salaries to the required minimum salary schedule at no less than the same rate of increase at which the district phases to the full funding of the defined minimum program.' Such interpretations can be best illustrated by example.

***2** Assume in a hypothetical district that the 1977-78 salary for a first year teacher is \$8,225. Assume that the 1978-79 State minimum salary schedule at the time of the implementation of this Act reflects the salary for a first year teacher at \$8,750. In this hypothetical district in 1977-78, it can be calculated that the total 'foundation program' funds (South Carolina Education Finance Act of 1977, *supra*, at § 3[1]) is in an amount of \$4,800,000. It is also calculated that the 1978-79 total foundation program funds will amount to \$5,206,000. For this hypothetical district, if the foundation program were fully implemented, full funding would require \$6,780,000.

It is maintained that § 5(4)(c) should be interpreted to require the school district to increase its salary schedule at the same rate of increase as its foundation funding is increased, or to the minimum statewide salary rate, whichever is less. Thus, using the figures cited above, the difference between the 1977-78 and 1978-79 total foundation program funds is \$406,000.00, which produces a percentage increase in the foundation funding of approximately 8.5% ($406,000 / 4,800,000$). Under the 'percentage increase' interpretation, the district would be required to increase its salary schedule 8.5%, or to the minimum statewide salary rate, whichever is less. In this case, the calculations would reflect that $\$8,225 \times 1.085 = \$8,924.00$. Since the 1978-79 state minimum salary schedule equals \$8,750.00, the minimum statewide salary schedule would control, since it is a lesser amount.

The second interpretation of the meaning of § 5(4)(c) is that the school district is permitted to close the gap in salaries to the minimum schedule proportionately at the same rate that its gap in full funding of the foundation program is closed. Thus, the increase in 1978-79 total foundation program funds of \$406,000 closes the gap to full funding of \$6,780,000 by approximately 20% ($406,000 / (6,780,000 - 4,800,000)$). At the same time, the difference between the hypothetical district's salary for 1977-78 for a first year teacher and the 1978-79 state minimum salary schedule is \$525 ($\$8,750 - \$8,225$). Since the gap between full funding of the foundation program is being closed at a rate of 20%, the gap between the district salary level and the state minimum salary schedule should be closed at the same rate. Under this interpretation of § 5(4)(c), the hypothetical district's salary for a first year teacher in 1978-79 should be at least \$8,330 ($\$8,225 + [20 \times \$525]$).

Obviously, under this method (referred to herein as the 'proportionate' method) any school district whose salary schedule was below the state minimum salary schedule on July 2, 1978, would not be required to pay the state minimum salary schedule until full funding of the foundation program was achieved. Unlike the 'percentage' method, the 'proportionate' method would not require any affected school district to 'jump' to the statewide minimum salary schedule before the district obtained full funding of the foundation program. The 'proportionate' method incorporates or recognizes the difference between current funding and full funding, and calculates what percentage of this difference the annual incremental increase in foundation program funds represents. The 'percentage' method does not concern itself with

difference between current funding and full funding, but calculates what the percentage of the annual incremental increase in foundation program funds is in relation to current funding.

*3 The question presented is whether the language ‘phase . . . at no less than the same rate of increase’ was intended to refer to the ‘percentage’ method of calculating an affected district's salary schedule, or the ‘proportionate’ method, as discussed above. It is a fundamental rule of construction, to which all other rules are subordinate, that the courts shall ascertain and give effect to the intention and purposes of the Legislature as expressed in the statute. [Helfrich v. Brasington Sand & Gravel Co.](#), 268 S.C. 236, 233 S.E.2d 291 (1977). To ascertain the intent of the Legislature, when an ambiguity exist in the language of the statute, it is the ‘whole act, read in light of the conditions and circumstances as they appear to the Legislature, and the purpose sought to be accomplished’ which is controlling. [City of Spartanburg vs. Leonard](#), 180 S.C. 491, 186 S.E. 395 (1936); [State vs. Gilliam](#), 208 S.C. 126, 37 S.E.2d 299 (1946).

Under the terms of the Education Finance Act, teachers' salaries are funded as an integral part of the foundation program and represent a portion of the program expense accounted for in the base student cost. The Education Finance Act recognizes that the cost of full implementation of the foundation program could not be met in one year. Under § 2(4) of the Education Finance Act, it is stated that it is the purpose of the General Assembly ‘[t]o make it possible for each school district to provide the defined minimum program within approximately five years from the effective date of this Act and to do so with an equal local tax effort’.

Under § 4 of the Education Act, in determining annual allocations, the General Assembly specifically set out ‘provisions for a phase-in plan of implementation’. As stated in § 4(3):

As a result of the cost of implementing the foundation program at both State and local level as calculated in this section, there will be a phase-in implementation period of five years to assist in implementing the Education Finance Program. (emphasis added)

Section 4(3)(a) of the Education Finance Act.

During the ‘phase-in’ period the act requires the General Assembly to specify the ‘percentage of the difference between current funding and full funding of the defined minimum program’. This section further provides that full implementation of the foundation program should be achieved in ‘substantially equal annual intervals over a period of five years’. There is reference to the ‘phase period’, providing that the length of the phase period might be increased or decreased according to the growth in state revenue.

With regard to the school districts, the ‘phase-in’ period is described somewhat differently, as follows:

Each local school district shall progress annually in eliminating the difference between its current funding and full funding of the defined minimum program at the same percentage as mandated by the General Assembly for statewide progress toward full funding. . . .

*4 Section 4(3)(b) of the Education Finance Act.

This language in Section 4(3)(b) does not appear dissimilar in meaning or purpose to the language in § 5(4)(c) which states that the affected school district ‘may phase salaries to the required minimum salary schedule at no less than the same rate of increase at which the district phases to the full funding of the defined minimum program’. The term ‘phase’, in the context of the Education Finance Act, consistently refers to the expressed intent of the General Assembly that full implementation of the foundation program should be achieved in ‘substantially equal annual intervals over a period of five years’. When the General Assembly in § 5(4)(c) used the phrase ‘may phase salaries to the required minimum salary schedule at no less than the same rate of increase at which the district phases to the full funding of the defined minimum program’, it seems reasonable to conclude from reference to other parts of the Act that the Legislature was referring to

a process of increasing the district's salary schedule 'in substantially equal annual intervals over a period of five years', or some other similar time frame depending upon the individual district's progress toward obtaining full funding of the foundation program. As a matter of statutory construction, where the meaning of a word or phrase is unclear in one part of the statute, but clear in another part, the clear meaning can be imputed to the unclear usage on the assumption that it means the same thing throughout the statute. 2A Sutherland Statutory Construction, § 47.16, p. 101 (1978 Cum.Supp.)

Of the two methods discussed in this opinion, the 'proportionate' method of calculating school districts' salary schedules affected by § 5(4)(c) appears to carry out the legislative intent and most nearly conforms to the method of calculation expressed in other parts of the statute. While it may be true that the 'percentage' method would be less difficult to calculate and administer, it is paramount that a construction be placed on the language of the statute that will best effect its purpose, rather than one which would defeat it, 82 C.J.S., Statutes, § 323, p. 608 (1953). In light of the entire purpose of the Act, which requires various complex calculations to determine annual funding allocations, it must be assumed that the Legislature understood the complexity inherent in the use of the 'proportionate' method of calculations under § 5(4)(c) when the legislation was enacted. Cf. Varn v. Beattie, 171 S.C. 424, 172 S.E. 442, 444 (1934).

However, under any circumstances, it should be noted that certain provisions of § 5(4)(a) of the Education Finance Act will override § 5(4)(c): These provisions of § 5(4)(a) state:

No teacher or administrator employed in the same position, over the same time period, shall receive less total salary, including any normal incremental increase, than that teacher or administrator received for the fiscal year prior to the implementation of this act.

*5 These 'hold harmless' provisions of § 5(4)(a) of the Education Finance Act will control if the 'proportionate' increase method of § 5(4)(c) produces a district salary schedule which provides a teacher or administrator employed in the same position, over the same time period, less total salary, including any normal incremental increase, than the teacher or administrator would have received under the applicable district salary schedule had the Act not been passed.

Additionally, an affected school district may choose to close the salary gap at a faster rate than that mandated by § 5(4)(c), but it may not do so at any lesser rate.

CONCLUSION:

It is the opinion of this Office that under § 5(4)(c) of the South Carolina Education Finance Act of 1977 school districts, whose salary schedules are below the state minimum salary schedule on July 2, 1978, may eliminate the difference between the districts' salaries and the state minimum salary schedule proportionately at the same rate and over the same time period that the school districts eliminate the difference between current funding and full funding for the foundation program (subject to the overriding provisions of the 'hold harmless' provisions of § 5(4)(a) of the Education Finance Act).

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