

1978 S.C. Op. Atty. Gen. 197 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-168, 1978 WL 22636

Office of the Attorney General

State of South Carolina

Opinion No. 78-168

October 9, 1978

***1 SUBJECT: School Finance**

The payments of sums of money in lieu of taxes by the South Carolina Public Service Authority pursuant to [§ 58-31-100, Code of Laws of South Carolina](#), 1976, are to be made to the counties specified in said statute and [§ 58-31-100](#) contains no provision entitling school districts to a portion of those payments.

TO: John W. Matthews, Jr.

Member

House of Representatives

QUESTION PRESENTED:

Are school districts in certain counties entitled to a portion of the payments required to be made by the South Carolina Public Service Authority in compliance with [§ 58-31-100\(1\)\(2\), Code of Laws of South Carolina](#), 1976.

STATUTES AND CASES:

[§ 58-31-80, Code of Laws of South Carolina](#), 1976; [§ 58-31-90, Code of Laws of South Carolina](#), 1976; [§ 58-31-100, Code of Laws of South Carolina](#), 1976; [Greenville Baseball, Inc. v. Bearden](#), 200 S.C. 363, 20 S.E.2d 813 (1942); [Laird v. Nationwide Insurance Co.](#), 243 S.C. 388, 134 S.E.2d 206 (1964); [McMillen Feed Mills, Inc., of South Carolina v. Mayer](#), 265 S.C. 500, 220 S.E.2d 221 (1975); [Investors Premium Corporation v. South Carolina Tax Commission](#), 260 S.C. 13, 193 S.E.2d 642 (1973); [Martin v. Ellisor](#), 266 S.C. 377, 223 S.E.2d 415 (1976); [Vernon v. Harleyville Mutual Casualty Co.](#), 244 S.C. 152, 135 S.E.2d 481 (1964).

DISCUSSION:

[§ 58-31-100](#), which codifies Act No. 1105, Acts and Joint Resolutions of South Carolina, 1974, provides for payment of certain sums in lieu of taxes to counties by the Public Service Authority beginning with fiscal year 1974-75. This statute expressly states that such payments, which are in addition to those required by [§§ 58-31-80](#) and [58-31-90](#), are to be made to a county or counties as determined in any one of the three subsections in [§ 58-31-100](#). Nowhere does the statute in question provide, either expressly or impliedly, that the required payments in lieu of taxes shall be made to school districts or to counties to be expended for school purposes.

[§ 58-31-80](#) provides that the Public Service Authority shall make certain payments in lieu of taxes to municipalities, school districts, and counties. [§ 58-31-90](#) provides for certain payments from the Public Service Authority in lieu of taxes to certain counties and school districts; however, this Code Section concludes with a proviso stating that the additional sums payable under that Section shall be used for support of public schools within the counties and districts involved. As previously stated, [§ 58-31-100](#) contains no provision whatever, requiring that the sums payable by the Public Service Authority in lieu of taxes be either paid or expended for school purposes.

While it is clear that the legislature intended that certain amounts of the payments to be made by the Public Service Authority in §§ 58–31–80 and 58–31–90 be used for school purposes, that intention is not manifested in § 58–31–100. In interpreting the language of a statute, it should be construed and implemented as written, as long as the language is clear and unambiguous. [Greenville Baseball, Inc. v. Bearden](#), 200 S.C. 363, 20 S.E.2d 813 (1942). The South Carolina Supreme Court laid down the standard for interpreting statutes in [Laird v. Nationwide Insurance Company](#), 243 S.C. 388, 134 S.E.2d 206, 209 (1964), stating:

*2 It should be kept in mind that the legislative intent must prevail if it can be reasonably discovered in the language used, which must be construed in the light of the intended purpose of the Statutes. One of the primary rules in a construction of a Statute is that the words used therein should be taken in their ordinary and popular significance, unless there is something in the Statute requiring a different interpretation.

No language exists within the four corners of the statute in question, § 58–31–100, which requires an interpretation different from that stated above. In that the language of the statute is completely clear and unambiguous, there is no room for construction and § 58–31–100 should be applied according to its literal meaning. That is to say, when the legislature included counties as the recipient of the payments under § 58–31–100, naming no other recipient for the payments, then the legislature must have intended that only counties be entitled to receive said payments. See [McMillen Feed Mills, Inc., of South Carolina v. Mayer](#), 265 S.C. 500, 220 S.E.2d 221 (1975).

The Court in [Investors Premium Corporation v. South Carolina Tax Commission](#), 260 S.C. 13, 193 S.E.2d 642 (1973), stated:

In construing a statute, the language should be given its ordinary and popular significance without resort to subtle and forced construction for the purpose of limiting its operation. [Citations omitted] A Court can neither legislate nor construe a statute which is clear.

Applicable case law also instructs that a statute must be given literal application upon plain language, unless such an application would produce an assured result. [Martin v. Ellis](#), 266 S.C. 377, 223 S.E.2d 415 (1976). Payment of sums required in § 58–31–100 solely to counties would not produce an absurd result. Finally, in [Vernon v. Harleyville Mutual Casualty Company](#), 244 S.C. 152, 135 S.E.2d 841 (1964), our Supreme Court declared:

When the terms of statutes are positive and unambiguous, exceptions not made by the legislature cannot be read into the Act by implication. 82 C.J.S. Statutes § 382(b), page 891. Where there is an express exception in a statute, all other exceptions which are not expressly set forth are excluded.

This quote is just as applicable to a situation in which the legislature enumerates only one class of recipients for the funds in question.

CONCLUSION:

§ 58–31–100, in clear and unambiguous terms, expressly states that the Public Service Authority shall make payment of certain sums in lieu of taxes to counties. This Code Section contains no provision for payment of said sums to any other entity, such as a municipality or school district. Finally, § 58–31–100 contains no exception to the payment of said sums to counties; therefore, the payments required of this Code Section are payable only to counties, and school districts would not be directly entitled to any of said payments.

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