

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211-1549
TELEPHONE: 803-734-3680
FACSIMILE: 803-253-6283

January 13, 1995

Mr. Preston Coleman
Commissioner
Vocational Rehabilitation Department
P. O. Box 15
West Columbia, SC 29171-0015

Dear Mr. Coleman:

The South Carolina Vocational Rehabilitation Agency (Agency) requests an opinion concerning whether funds appropriated the Agency under the 1992-93 Appropriations Act should be remitted to the State General Fund. The Agency receives federal funds to match the State's appropriation of funds. Later in the federal fiscal year, funds are voluntarily returned to the federal government from other states who do not spend their entire allotment. These funds are then remitted back to the federal government. The Agency may then request a portion of that money resubmitted to the federal government.

Often the South Carolina Vocational Rehabilitation Agency receives these reallotment funds from the federal government at the end of the federal fiscal year. Thus, the Agency requests an opinion as to whether reallotment of funds set aside for capital improvement projects may be used in later years.

Proviso 31.3 of the 1992-93 Appropriations Act directs the Agency "to complete a reconciliation of the cost to operate the Basic Support Program related to the combination of State and federal funds available following the close of each federal fiscal year." It further directs that this reconciliation be effected within 120 days following the close of that fiscal year. However, Proviso 31.2 provides that

To maximize the utilization of federal funding and prevent the loss of such funding to other states in the Basic Service Program, the State Agency of Vocational Rehabilitation be allowed to budget reallotment and other funds received

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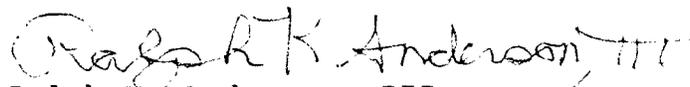
in excess of original projections in following
State fiscal years. (Emphasis added).

This provision specifically addresses the reallocation of funds and allows those funds to be used in later years. It is well settled that "[l]aws giving specific treatment to a given situation take precedence over general laws on the subject" Duke Power Co. v. S. C. Public Service Comm'n, 284 S.C. 81, 326 S.E.2d 395, 399 (1985); Langley v. Pierce, 438 S.E.2d 242 (S.C. 1993); see also, Ramsey v. County of McCormick, 412 S.E.2d 408 (S.C. 1991) ("Where one statute deals with a subject in general terms, and another with a portion of the same subject in a more specific and definite way, the special statute will be given effect.") Therefore, the General Assembly in setting forth that the funds may be used in subsequent fiscal years as opposed to only the following year, made clear that these funds may be available for long-term capital improvement projects.

Furthermore, South Carolina requires all capital improvements to be approved by both the Joint Bond Review Committee and the State Budget and Control Board. S.C. Code Ann. §§1-11-65 and 2-47-50 (1976, as amended). The South Carolina Vocational Rehabilitation Agency must specify the source of the funding when seeking the Committee's approval. S.C. Code Ann. §2-47-40 (1976). But for this requirement, the Agency could let the building contract bid immediately. However, earmarking the federal funds as a source of the capital improvements creates an obligation to use those funds for the purpose indicated.

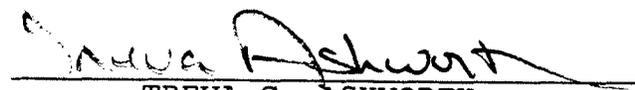
Therefore, the Agency would not be required to remit the federal reallocation funds under these circumstances.

Sincerely,

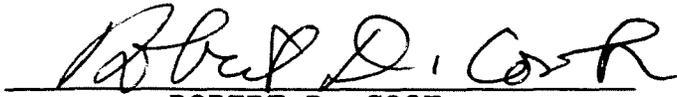

Ralph K. Anderson, - III
Assistant Attorney General

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REVIEWED AND APPROVED BY:


TREVA G. ASHWORTH
Deputy Attorney General

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A handwritten signature in cursive script, appearing to read "Robert D. Cook", written over a horizontal line.

ROBERT D. COOK
Deputy Attorney General