

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
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

April 15, 1992

The Honorable D. N. Holt, Jr., Chairman
Charleston County Legislative Delegation
2 Courthouse Square, Room 307
Charleston, South Carolina 29401

Dear Representative Holt:

You state that numerous public service districts are subject to budget review by the Charleston County Legislative Delegation. You also state the Governor vetoes your budget plans for the public service districts each year but does not challenge when you override his veto. You ask whether the public service districts would be allowed to operate under last year's budget in the event you are unable to override a veto this year on similar legislation. I assume that when you refer to budget you mean provision for the tax millage to be levied for the districts. It is the opinion of this Office that the Act 186 of the 1991 Acts and Joint Resolutions which provided for the tax millage to be levied and provided for the operating budgets of several local subdivisions, agencies, and commissions in Charleston County should probably not be utilized by the local subdivisions, agencies, and commissions for fiscal year 1992-1993.

The title of Act No. 186, 1991 Acts and Joint Resolutions reads as follows

AN ACT TO PROVIDE FOR THE TAX MILLAGE TO BE LEVIED IN CHARLESTON COUNTY FOR FISCAL YEAR 1991-92 FOR CERTAIN LOCAL SUBDIVISIONS, AGENCIES, AND COMMISSIONS OF THE COUNTY AND TO PROVIDE FOR THE TOTAL OPERATING BUDGETS OF THESE SUBDIVISIONS, AGENCIES, AND COMMISSIONS FOR FISCAL YEAR 1991-92. (Emphasis added).

The Honorable D. N. Holt, Jr.
Page 2
April 15, 1992

The title above indicates that the taxes were levied and budgets were provided for a particular year and the life of the act appears limited to the year specified. See Ops. Atty. Gen. June 12, 1985 and June 16, 1939. A review of the body of the Act No. 186 reveals that, with each entity addressed therein, the General Assembly expressly limited the terms of the act to the provision of tax millage and operating budgets for the fiscal year "beginning July 1, 1991 and ending June 30, 1992." The entities included in the act are the St. Johns Fire District, the St. Pauls Fire District, the St. Andrews Park and Playground Commission, the Cooper River Park and Playground Commission, the North Charleston District, the St. Andrews Public Service District, and the James Island Public Service District. "Where terms of statute are clear and unambiguous, there is no room for interpretation and (the terms must be applied) according to their literal meaning." S. C. Dept. of Highways and Public Transportation v. Dickenson, 288 S.C. 134, 341 S.E.2d 134 (1986). Here, the General Assembly appears to have clearly limited the authority of Act No. 186 of 1991 to the fiscal year ending June 30, 1992 and obviously contemplated an annual budget, precluding use of the Act mandates beyond that date.

Legislative history offers support for our conclusion. In reviewing the legislative history of the entities listed in the 1991 Act, it appears that the General Assembly has provided annual millage levies and operating budgets for each since 1972. 1/ See Act No. 1602, 1972 Acts and Joint Resolutions; Act No. 451, 1973 Acts and Joint Resolutions; Act No. 851, 1973 Acts and Joint Resolutions; Act No. 852, 1973 Acts and Joint Resolutions; Act No. 1375, 1974 Acts and Joint Resolutions; Act No. 365, 1975 Acts and Joint Resolutions; Act No. 800, 1976 Acts and Joint Resolutions; Act Nos. 301 and 302, 1977 Acts and Joint Resolutions; Act No. 726, 1978 Acts and Joint Resolutions; Act No. 249, 1979 Acts and Joint Resolutions; Act No. 587, 1980 Acts and Joint Resolutions; Act Nos. 229 and 230, 1981 Acts and Joint Resolutions; Act No. 522, 1982 Acts and Joint Resolutions; Act Nos. 218, 220, and 221, 1983 Acts and Joint Resolutions; Act No. 583, 1984 Acts and Joint Resolutions; Act No. 264, 1985 Acts and Joint Resolutions; Act No. 590, 1986 Acts and

1/ We were, however, unable to locate a 1984 provision establishing the millage levy or operating budget for fiscal year 1984-1985 for the James Island Public Service District.

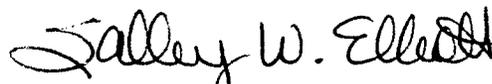
The Honorable D. N. Holt, Jr.
Page 3
April 15, 1992

Joint Resolutions; Act No. 256, 1987 Acts and Joint Resolutions; Act No. 764, 1988 Acts and Joint Resolutions; Act No. 273, 1989 Acts and Joint Resolutions; Act No. 717, 1990 Acts and Joint Resolutions; Act No. 186, 1991 Acts and Joint Resolutions. In the construction of statutes, it is necessary to discern the intent of the Legislature. Spartanburg Sanitary Sewer District v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984). It is the opinion of this Office that the provisions of Act 186 of the 1991 Acts and Joint Resolutions were intended by the Legislature to expire on June 30, 1992 and the entities provided for in the act would most probably not be permitted to operate under the Act thereafter.

Further, as this Office has previously opined that with respect to the Charleston County entities, an act such as Act 186 which sets the millage and approves budgets for special purpose districts or state political subdivisions within Charleston County is most probably unconstitutional as violative of Article VIII, § 7 of the South Carolina Constitution which prohibits enactment of laws for a specific county. See Ops. Atty. Gen. dated May 8, 1989; June 3, 1988; May 22, 1987; June 4, 1986; June 21, 1985; June 18, 1984; June 2, 1983; January 6, 1983; April 4, 1983; September 26, 1983; June 14, 1982; June 6, 1980. See also Op. Atty. Gen. September 30, 1985.

I hope that I have been responsive to your inquiry. I have attached copies of the prior opinions mentioned for your review.

Sincerely,



Salley W. Elliott
Assistant Attorney General

SWE/an
Enclosures

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions