

1977 S.C. Op. Atty. Gen. 285 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-358, 1977 WL 24696

Office of the Attorney General

State of South Carolina

Opinion No. 77-358

November 10, 1977

*1 TO: Mr. John A. McPherson, Jr.

Chief Engineer

State Budget & Control Board

QUESTIONS:

1. Does Section 10–1–80 Code of Laws of South Carolina (1976) include alteration and renovation of existing buildings in its requirement of competitive bidding?
2. Does 'permanent improvements' as stated in Act No. 219, Part I, Section 135, refer to alteration and renovation of existing buildings?

STATUTES AND CASES:

Section 10–1–80, Code of Laws of South Carolina (1976), as amended by Act No. 599, [Statutes at Large](#) (1976); Act No. 219, Part I, Section 135, [Statutes at Large](#) (1977); [Larson v. Crescent Planing Mill Co., Mo. App. 218 S.W.2d 814, 820](#); [Pritchard v. Williams, 181 N.C. 46, 106 S.E. 144, 145 \(1921\)](#).

DISCUSSION:

1. Section 10–1–80, Code of Laws of South Carolina (1976), as amended by Act No. 599 (1976) requires that public buildings or additions thereto costing more than thirty thousand dollars be subjected to competitive bidding. The focal point of this section is the requirement that public funds be expended only upon competitive bids and the opportunity to select the lowest bidder. The primary objective of the section appears to be the protection of expenditure of these funds.

The authorities are split on what can be considered a definition of 'construction' and no exact definition has been formulated. However, the fact that 'addition' to buildings is included in the section implies that the Legislature did not intend to limit the bids required only to original construction. Alteration and renovation could be included in the term 'addition.' See [Larson v. Crescent Planing Mill Co., Mo. App., 218 S.W.2d 814, 820](#), where the Court held construction to include alteration or improvement.

2. Act No. 219, Part I, Section 135, authorizes the Budget and Control Board to approve only those permanent improvements for which funds have been allocated in the State Budget. For example, Section 45 of the Act allocated a certain sum of money to the Department of Social Services for permanent improvements. The Budget and Control Board is authorized to oversee the expenditure of those funds.

'Permanent improvements' to land include all improvements of a permanent nature which substantially enhance the value of the property—and, . . . includes putting up [buildings] and any substantial improvements which might be made to those buildings, . . . but do not include repairs to buildings which should be made . . . in the ordinary use of the property.' [Pritchard v. Williams, 181 N.C. 46, 106 S.E. 144, 145 \(1921\)](#). Alterations and renovations would be considered permanent improvements if they enhance the value of the property and are not repairs in the normal course of operation as above.

CONCLUSION

1. Section 10-1-80 of the Code includes alteration or renovation of existing buildings in its requirement of competitive bidding.

*2 2. Permanent improvements as referred to in Act No. 219, Part I, Section 135, includes alteration and renovation which enhance the value of the property and are not repairs in the ordinary course of operation.

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