

1976 S.C. Op. Atty. Gen. 259 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4411, 1976 WL 23028

Office of the Attorney General

State of South Carolina

Opinion No. 4411

July 30, 1976

*1 Mr. Russell B. Shetterly
S. C. Association of Counties
1227 Main Street
Columbia, South Carolina 29201

Dear Mr. Shetterly:

You have requested an opinion as to Section 14–3710 of Act No. 283 of 1975, the ‘home rule’ legislation, which provides in part:

Public hearings, upon giving reasonable public notice, shall be held before final council action is taken to:

(1) adopt annual operational and capital budgets;

(2) make appropriations, including supplemental appropriations; . . . [Emphasis added.]

In response to your first inquiry, my opinion is that a general publication alerting the public to the possibility of future council action concerning supplemental appropriations does not comply with the notice requirement set forth in Section 14–3710 (‘[n]ot less than fifteen days’ notice of the time and place of such hearings shall be published in at least one newspaper of general circulation in the county’). To me, the intent of the public hearing requirement is that it is to be held each time a supplemental appropriation is definitely and finally acted upon and the intent of the notice requirement is that it is to be given before each such public hearing is held. On the other hand, Section 14–3710 does not prohibit the holding of the requisite public hearing at the same time and place as a council meeting; consequently, since the public hearing is required only before final council action is taken, the council can tentatively approve, or at least receive a request for, the supplemental appropriation at one meeting, give the required fifteen days’ notice before the next council meeting and, at that next council meeting, which will have to be held at least fifteen days after the required notice, take final action as to the supplemental appropriation while, at the same time and place, conduct the requisite public hearing. This procedure will result in a time lag between a request for and final approval of supplemental appropriations of probably no more than three weeks. Another alternative is that the council can notify county agencies and officials that it plans to take final action as to supplemental appropriations once a month, thereby notifying those making requests as to when the council will act upon them, and then publish the requisite notice for a public hearing thereon (to be held at the same time and place as the council meeting at which such action will be taken) at least fifteen days before that council meeting.

In response to your second inquiry, while a transfer of county funds from one department to another might be considered an ‘indirect’ appropriation and, thus, fall within the public hearing requirement of Section 14–3710, my opinion is that such a transfer does not require the holding of a public hearing before final council action is taken thereon so long as the transfer involves nothing more than that, *i.e.*, the movement of already appropriated county funds from one line item in the budget to another. If, however, the transfer results in a supplemental appropriation being made, then the public hearing requirement of Section 14–3710 should be complied with since, undoubtedly, one reason for the requirement of a public hearing as to the monetary matters enumerated there in is to apprise the citizens of the reason for and use of additional public funds and to afford them an opportunity to be heard thereon. Finally, you should note that Section 14–3710(1) includes annual operational and capital budgets only and not supplements thereto. *Cf.*, 14–3710(2).

With kindest regards,

*2 Karen LeCraft Henderson
Assistant Attorney General

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