

1975 WL 29156 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 28, 1975

*1 Dr. Cyril B. Busbee
State Superintendent of Education
Department of Education
Rutledge Building
1429 Senate Street
Columbia, South Carolina 29201

Dear Dr. Busbee:

The language of Section 20 (Part II) of the State Appropriations Act relates itself to all general obligation bonds of the State of South Carolina, with the exception of State Highway Bonds (payable from the gasoline tax) and State Institution Bonds (payable from tuition fees collected by the several institutions for whom bonds are issued). Accordingly, it covers State school bonds.

In view of the fact that existing debt service requirements exceed the five percent limitation, the only way in which State school bonds may be issued would be for the projects or purposes under contract as of the effective date of the State Appropriations Act, which was June 6, 1975.

The advices given to you by the State Budget and Control Board under date of May 27, 1975, with respect to the issuance of 14.1 million dollars State school bonds, has been superseded by the mandate of the General Assembly, and, accordingly, the issuance of State school bonds is prohibited by that language, except to the extent that there were projects or purposes then 'under contract.' The quoted phrase is ambiguous and is now the subject of a lawsuit in the courts. It will be necessary to await the outcome of that decision before a precise determination can be made.

The State Budget and Control Board is not legally able to issue any school bonds for the current fiscal year until such time as (1) the existing debt service requirements drop below the five percent limitations or (2) the court rules that the Board has authority to waive the debt service limitations for projects or purposes under contract at the effective date of the Appropriations Act.

In view of the above, the State Board of Education should not authorize school districts to spend money in reliance upon the school bond issue approved May 27, 1975. I would suggest that the local school districts be advised not to enter into any further contracts in reliance on the 14 million dollars in school bonds authorized for this year.

It is hoped that the conclusion of the lawsuit now pending may clarify some of the uncertain areas created by the restrictive provisions of the current General Appropriations Act. Until a decision is reached, it can at present only be said that reliance should not be placed upon the approval for the issuance of bonds heretofore made by the Budget and Control Board.

Very truly yours,

Daniel R. McLeod
Attorney General

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