

OFFICE OF THE ATTORNEY GENERAL

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Honorable Tom Butler
State Representative
Alabama House of Representatives
Montgomery, Alabama 36130

Department of Corrections -
Appropriations - Capital
Outlay - Reversions - Funds

The Alabama Department of
Corrections is using FY
1986-87 funds for the capital
outlay purpose of
constructing a new \$4 million
permanent facility.

The legislature does not
appropriate funds to operate
the Department of Corrections
by line item.

Dear Representative Butler:

We have received and considered your request for an
opinion from our office in response to the following
questions:

Question 1.

Can the Department of Corrections
encumber capital outlay funds at the
end of fiscal 1985-86 for certain
fiscal 1985-86 obligations and then
re-obligate those funds one year
later for a completely new capital
outlay purpose of constructing a \$4
million permanent facility?

It should be noted that the fiscal 1985-86 encumbrance detail listed no documentation concerning future capital outlay expenditure needs. Additionally, it should be noted that the encumbrance detail listed \$2.5 million for salaries and fringes which is in violation of Section 2 of the fiscal 1985-86 appropriation bill (Act 85-539).

The need for an answer to the first question is negated by the fact that we are informed by the Department of Corrections that the Department of Corrections is not using FY 1985-86 funds in the manner stated but rather is going to use FY 1986-87 funds for the capital outlay.

It is true, however, that the encumbrance detail listed \$2.5 million for salaries and fringes. The \$2.5 million for salaries and fringes was expended in FY 1985-86. The listing of this figure on the detail encumbrance form was through error and has been subsequently corrected in the comptroller's office.

Your second question is as follows:

Question 2.

Section 7 of the appropriation bill for fiscal 1985-86 (Act 85-539) and Section 41-4-93 of the Code of Alabama 1975 provide for the reversion of encumbered and unencumbered funds respectively to the State General Fund with the exception of the exclusions authorized in Section 41-4-93. Since the legislature did not appropriate capital outlay funds to the Department of Corrections in fiscal 1985-86 and the Department of Corrections did not document any plans for the erection of permanent buildings in their fiscal 1985-86 encumbrance detail, then would the Comptroller of the State of Alabama

violate Section 7 of the 1985-86 appropriation bill (Act 85-539) and Section 41-4-93 of the Code of Alabama 1975 if all of the remaining fiscal 1985-86 encumbered funds in Fund 300599 (Department of Corrections) are not reverted to the State General Fund on September 30, 1987?

As a general rule all funds not spent or encumbered by September 30 of each fiscal year revert to the State General Fund or the fund from which such appropriations are made. See Code of Alabama (1975), Section 41-4-93 and Section 7 of Act 85-539. The legislature does not appropriate funds to operate the Department of Corrections by line item. Funds appropriated to the Department of Corrections are appropriated by programs. Section 41-19-10 Code of Alabama (1975) states that each agency is instructed to prepare an operational plan for the operation of each of its assigned programs. Except as limited by policy decisions of the governor, appropriations by the legislature and other provisions of law, the several state agencies/departments shall have full authority for administering their program assignments and appropriations and shall be responsible for their proper management. See, §41-19-10(a) Code of Alabama (1975).

Therefore, the answer to your second question is in the negative.

We hope we have been able to answer your questions in a way that will assist you in your duties as a State Representative. If we may be of further assistance, please advise.

Sincerely,

DON SIEGELMAN
ATTORNEY GENERAL

BY:



BILLINGTON M. GARRETT
ASSISTANT ATTORNEY GENERAL