

From: Salley Elliott (C057924) <Elliott.Salley@doc.sc.gov>  
To: Pisarik, HollyHollyPisarik@gov.sc.gov  
CC: David Tatarsky (C030858)Tatarsky.David@doc.sc.gov  
Dayne Haile (C027588)Haile.Dayne@doc.sc.gov  
Date: 5/26/2016 4:01:04 PM  
Subject: FW: Proviso Review

---

Holly – Please find the proviso response from our General Counsel below.

Salley Elliott  
Chief Legal and Compliance Officer  
South Carolina Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221-1787  
(803)896-8508 (Office)  
(803)896-1766 (Fax)

---

From: David Tatarsky (C030858)  
Sent: Thursday, May 26, 2016 10:11 AM  
To: Salley Elliott (C057924) <Elliott.Salley@doc.sc.gov>  
Cc: David Tatarsky (C030858) <Tatarsky.David@doc.sc.gov>  
Subject: RE: Proviso Review

Upon review, I think all of our current provisos satisfy the "reasonably and inherently relate to the raising and spending of tax monies" test articulated in S.C. Public Interest Foundation v. James H. Lucas. Most contains specific provisions addressing how state funds should be collected or utilized. Those that do not allow SCDC to save money, which I think satisfies the “inherently related” test.

David M. Tatarsky, General Counsel  
S.C. Dept. of Corrections  
P.O. Box 21787  
Columbia, SC 29221-1787

803.896.2380  
803.896.1766 (fax)

---

From: Salley Elliott (C057924)  
Sent: Monday, May 23, 2016 3:48 PM  
To: David Tatarsky (C030858) <Tatarsky.David@doc.sc.gov>  
Cc: Dayne Haile (C027588) <Haile.Dayne@doc.sc.gov>  
Subject: FW: Proviso Review

David – Please see Holly Pisarik’s request and assign for response by Thursday. Thanks so much!

Salley Elliott  
Chief Legal and Compliance Officer  
South Carolina Department of Corrections  
Post Office Box 21787  
Columbia, South Carolina 29221-1787  
(803)896-8508 (Office)  
(803)896-1766 (Fax)

---

From: Pisarik, Holly [<mailto:HollyPisarik@gov.sc.gov>]

Sent: Monday, May 23, 2016 2:20 PM

To: Toomey, Bob <[btoomey@daodas.sc.gov](mailto:btoomey@daodas.sc.gov)>; Karen Manning - Commerce <[kmanning@scommerce.com](mailto:kmanning@scommerce.com)>; Boone, Susan <[SBoone@dew.sc.gov](mailto:SBoone@dew.sc.gov)>; Avant, David <[David.Avant@admin.sc.gov](mailto:David.Avant@admin.sc.gov)>; Salley Elliott (C057924) <[Elliott.Salley@doc.sc.gov](mailto:Elliott.Salley@doc.sc.gov)>; Byron Roberts - HHS <[robertsb@scdhhs.gov](mailto:robertsb@scdhhs.gov)>; Gwen McGriff - DOI <[gmcgriff@doi.sc.gov](mailto:gmcgriff@doi.sc.gov)>; Elizabeth Hill - DJJ <[eahill@scdj.net](mailto:eahill@scdj.net)>; Melina Mann - LLR <[melina.mann@llr.sc.gov](mailto:melina.mann@llr.sc.gov)>; Frank "Val" Valenta - DMV <[val.valenta@scdmv.net](mailto:val.valenta@scdmv.net)>; Emily Johnson - PRT <[ejohnson@scprt.com](mailto:ejohnson@scprt.com)>; Matthew Buchanan - PPP <[matthew.buchanan@ppp.sc.gov](mailto:matthew.buchanan@ppp.sc.gov)>; Warren Ganjehsani - DPS <[wganjehsani@scdps.gov](mailto:wganjehsani@scdps.gov)>; Milton Kimpson - DOR <[milton.kimpson@dor.sc.gov](mailto:milton.kimpson@dor.sc.gov)>; Tony Catone - DSS <[tony.catone@dss.sc.gov](mailto:tony.catone@dss.sc.gov)>; Linda McDonald <[mcdonaldlc@scdot.org](mailto:mcdonaldlc@scdot.org)>; Adam Witsett - SLED <[awhitsett@sled.sc.gov](mailto:awhitsett@sled.sc.gov)>  
Cc: Taylor, Richele <[richele.taylor@llr.sc.gov](mailto:richele.taylor@llr.sc.gov)>  
Subject: Proviso Review

Good Afternoon GCs,

As you are likely aware, the SC Supreme Court recently issued a ruling striking down a 2015-2016 budget proviso as unconstitutional. I've attached that case for your review and summarized its holding below.

\*\*\*The "test" for provisos under the one subject rule appears to be whether the proviso reasonably and inherently relates (not directly relates) to the raising and spending of tax monies – it must be a monetary matter, not an administrative or procedural matter. E.g. reenacting tort claims caps, requiring local governments to remit real estate fees to state, creating a committee to negotiate new contracts and fees, altering definition of machines subject to licensing fees, etc. Examples where content was not germane: permitting referendums in SPDs to decide nature of budget, amending an act creating Court of Appeals, and giving state custody of certain unclaimed property.

In light of this case, please review provisos contained in your 2016-2017 agency budget, and let me know if you think any of them violate the one subject rule. Although the budget is not yet final, we have begun our review, so please reply to me with your analysis by no later than this Thursday (May 26<sup>th</sup>). Even if you find no problems, please respond. Let me know if you have questions.

Thanks, Holly

Holly G. Pisarik  
Chief Legal Counsel  
Office of Governor Nikki R. Haley  
O: 803-734-8465 C: 803-322-6255