



Policy Analysis

South Carolina Policy Council

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Writing the State Budget – by the Law

South Carolina law says the Legislature writes the budget. Right? Wrong.

The background

For decades, South Carolina lawmakers have cobbled together the state budget with virtually no input from the governor. The state's spending priorities were largely dictated by members of the General Assembly – and especially by the chairmen and members of the House Ways and Means Committee and the Senate Finance Committee. The governor's only formal input into the budget process was limited to (a) general guidelines summed up in the State of the State address, and (b) budget vetoes. Governor Sanford broke with tradition by submitting detailed executive budgets, but these were almost totally ignored.

South Carolina lawmakers seem to believe that the law mandates that they write the budget, and that it allows them, if they choose, to ignore the governor's recommendations. But that's not what the law says.

The law

The South Carolina Code of Law mandates that *the governor submit the first draft of the budget, and that lawmakers consider changes to that budget in joint and open hearings.*

Section 11-11-15, originally written into the law in 1993, explicitly transfers budget-writing authority from the Budget and Control Board to the governor. "In preparing the state budget," the law says, "the governor may consult with the state treasurer, the comptroller general, or other state officials as needed." It goes on to say that the State Budget Office, under the Budget and Control Board, "shall assist the Governor in preparing budget recommendations."

- ▶ Note that, according to the Code, the governor doesn't merely offer general guidelines to the Legislature; the State Budget Office "assists" the Governor's Office in preparing "the" budget.

Section 11-11-70 requires that printed copies of the governor's budget must be submitted to the presiding officers of both House and Senate. The law furthermore demands that the governor's budget should consist of a "complete and itemized plan of all proposed expenditures for each state department, bureau, division, officer, board, commission, institution, or other agency or undertaking." And the executive budget must "show in separate parallel columns the amount appropriated for the last preceding appropriation year, for the current appropriation year, and the increase or decrease." *This is more than a set of general guidelines or a State of the State address.*

Section 11-11-90 is plain and direct: Within five days after the governor submits the budget, the Senate Finance and House Ways and Means Committees "shall sit jointly in open sessions while considering the budget." These are to be "public hearings," and the governor as well as other Budget and Control Board members have the right to be heard "on all matters coming before the joint committee."

Section 11-11-100 allows that “the General Assembly may increase or decrease items in the budget bill as it may deem to be in the interest of greater economy and efficiency in the public service.” The intent is clear. The governor should draft “the budget,” and the Legislature should make adjustments to that document.

After extensive research, the Policy Council has been unable to find evidence that this process has been followed at any time in modern South Carolina history.

The timeline

Not only does state law prescribe *that* these things should happen – it prescribes *when* they should happen.

- All state government entities must report itemized budget requests to the Comptroller General by **November 1st**. These requests are to be made on official forms provided by the governor’s office.
- The Comptroller General must give the governor an itemized estimate of the “financial needs of the State” by **December 1st**.
- Within five days after the legislative session begins, the governor must submit the budget – an itemized spending plan showing the previous year’s spending alongside the proposed spending for the upcoming year – to the presiding officers of the House and Senate. That would mean by **January 15th** of this year.
- Within five days after the executive budget is submitted, the standing appropriation committees of the House and Senate must meet openly in joint sessions to consider the governor’s spending plan. That would mean by **January 20th** of this year.

The law’s timeline contrasts dramatically from the time-frame currently used by the Legislature. In a typical legislative session, Ways and Means subcommittees begin meeting when session begins in January. The full Committee brings together the subcommittees’ work in March or April. From there it goes to the full House, and only then does the Senate Finance Committee begin its work. The final budget doesn’t pass until June or July.

Why the law makes sense

South Carolina’s budget-writing process is in dire need of reform. Yet the most important way we can reform that process isn’t by changing the law, but by following it.

Under the current practice, the budget grows by accretion throughout the legislative session until it becomes a giant incoherent hodgepodge of spending items. By contrast, if the law were followed, *legislators would be openly debating a full and coherent budget at the beginning of the session.*

The real problem with the current *de facto* budget process, though, is that it excludes the only elected official to have a statewide perspective on spending: the governor. Legislators are accountable to the voters of their districts; the governor is accountable to the entire state. Those two perspectives have a powerful effect on the way legislators and governors envision spending priorities. A legislator or legislative delegation may feel that some local project is vital to the area’s welfare – a new road, capital improvements at a tech school, funding for a local agency, or a museum dedicated to green beans. A governor, by contrast, is forced to view those local projects *in the context of the entire state’s needs.*

In South Carolina, localized legislative concerns dominate the process from beginning to end, with only the governor's budget vetoes standing in the way. The consequences have been predictable: notoriously wasteful spending, rampant duplication of services, budgets full of favors for well-connected companies, and a lack of both transparency and accountability throughout the entire process.

Conclusions

- (1) The General Assembly still possesses enormous power over the state budget, but it does not have the authority to set the state's spending priorities. **The law gives the governor that authority.**
- (2) The law doesn't simply *allow* the governor to write a detailed spending plan – **it requires the governor to write *the* budget.**
- (3) The law also requires the two chambers' appropriations committees to hold joint and open hearings on the governor's budget five days after that budget is submitted. Again, these hearings are not suggested as "best practices." **They are required.**