

June 9, 2023

The Honorable Travis A. Moore  
Chairman, Economic Development, Natural Resources  
and Transportation Subcommittee  
S.C. House of Representatives Legislative Oversight  
228 Blatt Building  
Columbia, S.C. 29201

RE: Annual Budget Submissions from the South Carolina Jobs-Economic Development Authority

Dear Chairman Moore:

Thank you for your letter inquiring about the annual budget submissions from the South Carolina Jobs-Economic Development Authority (JEDA). As you are aware, Brian Gaines was recently appointed Comptroller General until such time as the General Assembly elects a successor or a successor qualifies as provided by law. I apologize for the delay in this response as Mr. Gaines transitioned to his new role. I will address each of your questions separately.

**(1) Based on EBOs understanding of JEDA as a state agency, and considering the statutory provisions set forth above, is JEDA required and expected to submit a budget to EBO annually?**

JEDA is exempted from the provisions of S.C. Code Section 2-7-65 which requires agencies to justify to the Governor the entire amount of money they are requesting under the Appropriations Act. Accordingly, JEDA is not required to submit any budgetary requests to EBO. JEDA has been exempted from the provisions of Section 2-7-65 since the passage of Act 404 of 1992, wherein the legislature amended Section 41-43-280 in order "...to provide that ... [JEDA] ... is not considered an agency for budget requests...."

Additionally, like other quasi-public agencies, JEDA receives funding through a continuing appropriation in a set of permanent statutes that authorizes it to raise and spend revenue. See S.C. Code Ann. Sections 41-43-10, et seq. The Comptroller General has pointed out that these quasi-public agencies "are not included in the state budget nor are they included in the state's central accounting system." See <https://www.cg.sc.gov/fiscal-transparency/quasi-public-state-agencies-south-carolina>. The South Carolina Supreme Court has on numerous occasions indicated that it is the legislature's duty to appropriate money and that they may do so by providing for continuing appropriations through permanent statutes in addition to those made in the annual Appropriations Act. See *Edwards v. State*, 383 S.C. 82, 678 S.E.2d 412 (2009) ("An appropriation may be made by the General Assembly in the annual Appropriations Act or in a



permanent continuing statute"); *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000); *Grimball v. Beattie*, 174 S.C. 422, 177 S.E. 668 (1934); *Dacus v. Johnston*, 180 S.C. 329, 185 S.E. 491 (1936). The Comptroller's recognition and the Court's holdings are also consistent with the Attorney General's opinion regarding the Railway Commission (another quasi-public agency) that "no annual authorization to receive and expend revenues is necessary in the annual Appropriations Bill" for such an agency with a permanent statute authorizing the raising and spending of revenue. See *Op. S.C. Att'y Gen.*, 1982 WL 189524 (March 26, 1982).

It is not known to EBO why JEDA is included in the annual Appropriations Act for the expenditure of funds to cover (all or any portion of) the costs of JEDA's operations. However, as pointed out above, that fact does not alter the legislature's ability to authorize JEDA to expend funds through a permanent statutory framework – i.e. Code Sections 41-43-10 et seq.

**(2) The 2022-2023 General Appropriations Bill provides data regarding JEDAs funding (e.g., salaries, employer contributions, etc.) Does his budget govern and reflect the agency's activities? If not, please explain what the budget data reflects.**

JEDA is not included in the state's central accounting system (SCEIS). So, EBO has no means through which to track JEDA's expenditures. Accordingly, EBO would not know if the budget data reflects the agency's activities. The data would reflect that, through the budget, the legislature has provided JEDA authority to spend funds in conjunction with the permanent statutes that authorizes it to raise and spend revenue.

I trust that this letter responds to the questions raised in your letter. Please let me know if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Shealy". The signature is fluid and cursive, with the first name "Mike" and last name "Shealy" clearly distinguishable.

Mike Shealy  
Executive Budget Office