

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. ~~88-270987~~ March 23, 1988  
SUBJECT: Taxation & Revenue - Property tax limitation  
because of inflation.  
SYLLABUS: Section 12-43-295 prohibits a taxing entity  
from levying a tax to fund an item identified  
as an inflation factor. It does not preclude  
the levy of a tax to fund the increase in  
cost for furnishing the same level of  
services provided by a taxing entity in the  
preceding tax year.  
TO: Honorable S. Hunter Howard, Jr.  
Chairman, South Carolina Tax Commission  
FROM: Joe L. Allen, Jr. *JLA*  
Chief Deputy Attorney General

QUESTION: Is a taxing entity prohibited by Section  
12-43-295 from increasing property taxes to fund the  
increase in the cost of providing the same level of services  
as furnished by the taxing entity during the preceding year?

APPLICABLE LAW: Section 12-43-295, South Carolina Code of  
Laws, 1976.

DISCUSSION:

A review of related constitutional and statutory provisions  
will be helpful in this matter. Article X, Section 7(b) of  
the South Carolina Constitution provides in part that:

"Each political subdivision of the  
State as defined in Section 14 of this  
article and each school district of  
this State shall prepare and maintain  
annual budgets which provide for  
sufficient income to meet its estimated  
expenses for each year. Whenever it  
shall happen that the ordinary expenses  
of a political subdivision for any year  
shall exceed the income of such  
political subdivision, the governing

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body of such political subdivision shall provide for levying a tax in the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year together with the estimated expenses for such ensuing year. . . ."

Each taxing entity is there required to adopt annual budgets and levy taxes sufficient, with other revenue, to fund the same.

Section 4-9-140 relates to counties and provides in part that:

"County council shall adopt annually and prior to the beginning of the fiscal year operating and capital budgets for the operation of county government and shall in such budgets identify the sources of anticipated revenue including taxes necessary to meet the financial requirements of the budgets adopted. Council shall further provide for the levy and collection of taxes necessary to meet all budget requirements except as provided for by other revenue sources."

We do not find a comparable provision for municipal corporations, however, Sections 5-13-90 and 5-9-30 relate thereto. The requirement of school districts is governed in many instances by special acts. The general law is found in Section 59-73-10, et seq.

There is little doubt, however, that each of the state's taxing entities must adopt annual budgets and fund the same from a tax levy or other revenues. With this in mind, we consider the impact of Section 12-43-295 on the budget and tax collections.

It is a settled rule of construction that this Section must be considered in conjunction with other related statutes and constitutional provisions.

"Statutes in pari materia . . . have to be construed together and reconciled,

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if possible, so as to render both operative. . . ." Bushy v. State Farm Mut. Auto. Ins. Co., 280 S.C. 330, 312 S.E. 716. (For other cases see 17 S.C.D., Statutes, Key 223.2(1).

By opinion of this office, 1975-76 OAG 4323, page 143, we advised that Section 12-43-280 did not preclude a tax increase beyond one percent of the previous year's tax when such was necessary to fund budget needs. In that opinion we referred to increases in costs caused by inflation, existing contracts or commitments.

Thereafter, some taxing entities inserted a tax levy for "an inflation factor". As understood, the entity would specify in its budget the expenditures and the tax levies necessary therefor. Additionally, a separate levy would be made "as an inflation factor". This obviously was not provided for in the opinion and the apparent purpose of Section 12-43-295 was to prohibit this practice. The taxing entity is to adopt its budget and levy the taxes necessary to fund the same. There can be no additional levy as "an inflation factor".

To conclude that the entity could not increase taxes to fund the costs of providing the same level of services would result in the curtailment or a reduction of the services. We do not find this requirement in Section 12-43-295. If such were the case, it would be in conflict with the constitutional and statutory provisions previously stated.

Section 12-43-295 does not preclude the additional tax levy, for the purpose of funding the same level of services as previously provided. The purpose of the Section was to insure compliance with Article X, Section 5, of our Constitution that provides in part that:

"Any tax which shall be levied shall distinctly state the public purpose to which the proceeds of the tax shall be applied."

A levy "as an inflation factor" would not meet the requirements of this provision in that there is no statement of the purpose to which the same is applied.

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CONCLUSION:

Section 12-43-295 prohibits a taxing entity from levying a tax to fund an item identified as an inflation factor. It does not preclude the levy of a tax to fund the increase in cost for furnishing the same level of services provided by a taxing entity in the preceding tax year.

JLAJr:wcg