

## The State of South Carolina



## Office of the Attorney General

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August 28, 1986

Michael F. Mullinax, Esquire  
P. O. Box 4025  
Anderson, South Carolina 29622

Dear Mr. Mullinax:

I have received your recent letter in which you enclosed several proposed questions regarding Anderson County that will be placed on the general election ballot. These are referendum questions that would change the form of government, term and method of election. I have, at your request, reviewed these enclosures. The one proposed question I have serious problems with is the one for method of election.

Proposition B provides a mixture of at large and single member districts. I note that Anderson now is functioning under such a system, and therefore, apparently retained this system from their previous system before Home Rule. However, Section 4-9-10(b) provides that if a referendum is called the selection is between straight at large or single member districts. There is no provision for combining these two alternatives.

I am also enclosing prior opinions of this Office which set out the suggested ballot format for the submission of a change. See in general South Carolina Code of Laws, 1976, Section 7-13-400.

Sincerely yours,

A handwritten signature in black ink that reads "Treva G. Ashworth".

Treva G. Ashworth  
Senior Assistant Attorney General

TGA/ss  
Enclosures

Reviewed and Approved By:

A handwritten signature in black ink that reads "Robert D. Cook".

Robert D. Cook  
Executive Assistant for Opinions

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

August 28, 1986

SUBJECT: Taxation and Revenue - Sales Tax - Diesel  
Fuel Used In School Buses.

SYLLABUS: The gross proceeds of the sale of diesel fuel  
that is used in state-owned school buses are  
exempt from the sales and use tax.

TO: Mr. A. B. Taylor, Director  
Field Services Division  
South Carolina Tax Commission

FROM: Joe L. Allen, Jr. *JLA*  
Chief Deputy Attorney General

QUESTION: Are the gross proceeds of sale of diesel fuel  
used in state-owned school buses subject to sales tax?

APPLICABLE LAW: §§ 12-35-550(16), 12-27-230, 12-27-240,  
12-29-310, 12-29-325 and 12-27-270, Code of Laws of South  
Carolina, 1976.

DISCUSSION:

Section 12-35-550(16) provides an exemption from the sales  
tax of the sale of gasoline or other motor fuels taxed at  
the same rate as gasoline. Both gasoline and diesel fuel  
are subject to the same rate of taxation. See §§ 12-27-230,  
12-27-240 and 12-29-310. Because both are taxed at the same  
rate, the exemption afforded by § 12-35-550(16) applies.

It should be noted that both gasoline and diesel fuel are  
exempt from gasoline or diesel fuel taxes when used in  
school buses. Section 12-27-270 exempts gasoline and §  
12-29-325 exempts diesel fuel. Both, when used in  
state-owned school buses, are taxed at the same zero rate.

The exemption is further supported by the well established  
rule that statutes that grant exemption to the state are to  
be liberally construed. Town of Myrtle Beach v. Holliday,  
203 S.C. 25, 26 S.E.2d 12.

Mr. A. B. Taylor  
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CONCLUSION:

The gross proceeds of the sale of diesel fuel that is used in state-owned school buses are exempt from the sales and use tax.

JLAJr:wcg