

1979 WL 43006 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 18, 1979

\*1 Mr. R. C. Fennell  
Superintendent of Education  
Williamsburg County Board of Education  
Post Office Box 670  
Kingstree, South Carolina 29556

Dear Mr. Fennell:

You have directed to this Office three questions concerning the effects of 'home rule' legislation on Williamsburg County Board of Education matters. I will respond to those questions in the order in which they were posed:

1. Under home rule does the delegation or county council approve the school budget?
2. In the case of a millage increase, to whom should the Board direct its request?

In my opinion, both school budgets and requests for millage increases should be directed to the legislative delegation, since the General Assembly retains the ultimate authority for levying taxes for educational purposes in Williamsburg County. [Section 4-9-70, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, provides in part as follows:

The provisions of this chapter shall not be construed to devolve any additional powers upon county councils with regard to public school education, and all school districts, boards of trustees and county boards of education shall continue to perform their statutory functions in matters related thereto as prescribed in the general law of the State; . . . provided, further, that in any county where the General Assembly retained the authority to establish or limit the millage levied by school districts or levy a tax for educational purposes, on January 1, 1974, such authority shall continue in the General Assembly until such time as such authority may be transferred to the school district or the county governing body by act of the General Assembly.

On January 1, 1974, the General Assembly retained the right to levy a tax for educational purposes in Williamsburg County. See, Act No. 794 of 1973 [58 STAT. 1594 (1973)]. Therefore, until and unless the General Assembly transfers to the Williamsburg County Council by legislation its authority to levy a tax for educational purposes, that authority remains in the General Assembly. Moreover, in my opinion, the provisions of Section 10 of Act No. 332 of 1957 must still be complied with. 50 STAT. 381 at 387 (1957).

3. Who appoints the Board members?

In my opinion, Section 4-9-170 does not presently provide for any change in the method of appointment of members of county boards of education. Section 2 of Act No. 332 of 1957 [55 STAT. 381 (1957)] provides in part:

The members of the County Board, other than the County Superintendent, shall be appointed by the Governor upon the recommendation of the majority of the Legislative Delegation of Williamsburg County, including the Senator, for a term of two years.

With kind regards,

Karen LeCraft Henderson

Senior Assistant Attorney General

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