

1979 WL 43630 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 2, 1979

***1 RE: Requested Attorney General's Opinions**

Honorable J. Wilton Graves
Box 5068
Hilton Head Island, South Carolina 29928

Dear Mr. Graves:

You have requested an opinion from this Office concerning the respective authorities of the Beaufort County Council and the Beaufort County Board of Education to incur general obligation debt by the sale of bonds. First, you have inquired whether the County Board of Education may issue general obligation bonds independent of the approval or action of the Beaufort County Council. The answer to this question is clear by reference to Art. X, § 15, Constitution of South Carolina, 1895, as amended. Subsection 1 of § 15 of the 'New Art. X' states, 'The school districts of the State shall have the power to incur general obligation debt only in such manner and upon such terms and conditions as the General Assembly shall prescribe by law within the limitations set forth in this section.' That section does not limit the County Board of Education's power to issue general obligation bonds, vis a vis the Beaufort County Council; moreover, I am aware of no enactment of the General Assembly which otherwise restricts the authority of the County Board, vis a vis the County Council.

Secondly, you inquire whether the Beaufort County Board of Education may request a referendum on a bond issue prior to authorization of the General Assembly. The initial response to this question is that the Beaufort County Board of Education is not required by New [Art. X, § 15, Constitution of South Carolina](#), and [§ 11-27-50, Code of Laws of South Carolina](#), 1976, as amended [*Effect of New Art. X on Bonds of School Districts*] to hold a referendum prior to incurring general obligation debt up to the limits allowed the Beaufort County Board of Education under former Art. X of the South Carolina Constitution. This is the position previously taken by this Office, in accordance with the enclosed Opinion of Karen LeCraft Henderson, Senior Assistant Attorney General, dated March 23, 1978.

The Beaufort County Board of Education's previous authority to incur general obligation debt, which apparently governs until 1982, is proviso 110 of [Art. X, § 5](#) prior to revision of [Art. X](#) in 1977. This proviso reads as follows: Provided, that the limitations imposed by this [§ 5 of Art. X](#), and by any other constitutional provisions imposing limitations upon bonded indebtedness that may be incurred by counties, townships, school districts, municipal corporations, or political divisions or subdivisions of this state shall not apply to the County of Beaufort, any township in Beaufort County, any school district in Beaufort County, any municipal corporation in Beaufort County, or any political division or subdivision in Beaufort County.

While the question is certainly not free from doubt, the above-quoted proviso, at least until 1982, exempts the Beaufort County Board of Education from any limitation upon incurring bonded indebtedness.

*2 Finally, a search of the South Carolina Code of Laws and the acts ratified by the General Assembly at its regular session in 1979 fails to reveal any legislation requiring a referendum or advisory vote before the Beaufort County Board of Education may issue general obligation bonds. The application of the State School Bond Act is considered in the

enclosed Opinion of Ms. Henderson. I know of no authority giving the Board of Education discretion to hold such a referendum absent legislative authorization.

With kind regards,
Sincerely,

Paul S. League
Assistant Attorney General

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