

1978 WL 34923 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 1, 1978

\*1 W. E. Jenkinson, III, Esquire  
Jenkinson and Jenkinson  
120 W. Main Street  
Kingstree, South Carolina 29202

Dear Mr. Jenkinson:

Your letter of May 24, 1978, to the Attorney General has been referred to me for an appropriate response. I have reviewed the acts enclosed in your letter as well as your proposed note and resolution. In our recent telephone conversation, you expressed concern about the constitutionality of the subject acts under the county 'home rule' amendment to the Constitution. I am enclosing a copy of [Moye v. Caughman, 217 S.E.2d 36 \(1975\)](#), which held that under [Article XI, Section 3 of the Constitution](#) public education is the responsibility of the legislature and not the counties. Therefore, a law for a specific county dealing with school districts does not violate the 'home rule' amendment, Article VIII, Section 7. You also expressed concern about the requirement that the county auditors and treasurer collect an annual tax to retire the school loan. In this regard, [Hay v. Leonard, 212 S.C. 81, 46 S.E.2d 653 \(1948\)](#), held that the county treasurer in collecting this tax is acting as the treasurer for the school district. Again, I do not believe that this provision would violate the 'home rule' amendment.

In regard to your proposed, note, I wish to point out that the promisor of the note is the County of Williamsburg. I believe that correctly the School District should be the promisor. I am enclosing for your perusal copies of a note and resolution prepared by the County of Colleton for a county hospital loan. Perhaps these documents will assist you in reviewing your note and resolution.

Very truly yours,

Richard B. Kale, Jr.  
Assistant Attorney General

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