

1975 WL 29723 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
April 16, 1975

*1 Charles L. Cummins, Jr.
District Superintendent
Laurens School District 56
P. O. Drawer 240
Clinton, SC 29325

Dear Superintendent Cummins:

In answer to your request for an opinion regarding the constitutionality and effect of 1974 Act No. 1277, I am of the opinion that this Act is constitutional and would not affect the employment status of your attendance teacher and lunch room supervisor. Since this statute relates to millage increase for local supplements for educational personnel, the purpose of this legislation therefore relates to physical affairs of the school district. The State Supreme Court in the case of Mill's Mill v. Hawkins, 123 S.C. 515, 103 S.E.2d 14 (1957), held that acts relating to physical affairs of counties and other political subdivisions were not special legislation. I, therefore, am of the opinion that the legislation in question does not violate the prohibition against special legislation found in Article 3, Section 34 of the Constitution of South Carolina.

As for your question regarding the employment status of the attendance teacher and lunch room supervisor, these positions remain under the County Board of Education, pursuant to Sections 21-762 and 21-863, Code of Laws of South Carolina, which have in no way been altered by 1974 Act No. 1277. While the districts would be using district money to pay the salary of a county board employee, I feel that the courts would conclude that there was sufficient educational interest in such supplements and therefore would uphold such payment. (The State Supreme Court, for example, has upheld the right of a county to issue its bonds to construct school buildings when a school district is coterminus with the county, Gray v. Veigneur, 243 S.C. 604, 135 S.E.2d 229.)

As requested in my letter to you dated February 12, 1975, please refer any further requests for legal opinions through your local school board attorney.

Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

ATTACHMENT

AMENDED

August 22, 1974

Calendar No. H. 3415

Introduced by LAURENS DELEGATION

L. Printer's No. 475-S.

Read the first time August 8, 1974.

A BILL

To Amend Act 160S of 1972, as Amended, Relating to School Taxes in Laurens County, so as to authorize a Tax Millage Increase for the Fiscal Year 1974-1975 only, to Enable the Payment of the Laurens County Teachers' Salary Supplement of Twenty Percent of the Compensation Provided under the State General Appropriation Act. Amend title to conform.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 3 of Act 1608 of 1972, as last amended by Act 490 of 1973, is further amended to read:

'Section 3. Notwithstanding the provisions of Section 1 of Act 171 of 1967, as amended by this act, for the year 1975 only the Laurens County Board of Trustees of each school district is authorized to levy a tax sufficient to provide for the increase in the twenty percent supplement to teachers' salaries occasioned by the average eight percent state-aid increase enacted for the fiscal year 1974-1975 only; *provided*, the millage increase shall not exceed four mills; *provided*, further, that the attendance teacher and lunchroom supervisor may receive a twenty percent local supplement from such millage increase.'

*2 SECTION 2. This act shall take effect upon approval by the Governor.

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