

1975 S.C. Op. Atty. Gen. 150 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4073, 1975 WL 22370

Office of the Attorney General

State of South Carolina

Opinion No. 4073

August 5, 1975

*1 The General Assembly will be the body authorized to levy a tax for educational purposes and to establish or limit the millage levied by school districts in Clarendon County for the fiscal year 1976–1977 in the absence of an act transferring that power to the Clarendon County governing body or to the individual school districts in Clarendon County.

TO: The Honorable John C. Land, III,
Representative
Clarendon County

QUESTIONS PRESENTED

Will the Clarendon County Legislative Delegation or the Clarendon County Board of Commissioners have the authority to levy taxes and appropriate funds for educational purposes in Clarendon County for the fiscal year 1976–77; and, if the Legislative Delegation is the authorized body, will an act of the General Assembly be required in order to transfer that power to the Clarendon County governing body?

CASES, STATUTES, ETC., INVOLVED

Act No. 283 of 1975.

58 STAT. Act No. 622 at 1177 (1973).

DISCUSSION OF ISSUES

Section 14–3704 of Act No. 283 of 1975, the ‘home rule’ legislation, provides in part:

. . . 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 had the authority to establish the millage levied by school districts and to levy taxes for educational purposes in Clarendon County. See, 58 STAT. Act No. 622, Sections 1 and 1(e) at 1177–9 (1973). This authority will continue to repose in the General Assembly, therefore, for the fiscal year 1976–1977. If that power is to be placed in the Clarendon County governing body or in the boards of trustees of the respective Clarendon County school districts, an act of the General Assembly will be required to so place it.

CONCLUSION

The opinion of this office is, therefore, that the General Assembly will be the body authorized to levy a tax for educational purposes and to establish or limit the millage levied by school districts in Clarendon County for the fiscal year 1976–1977

in the absence of an act transferring that power to the Clarendon County governing body or to the individual school districts in Clarendon County.

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