

1975 WL 29175 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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*1 A constitutional or statutory grant of fiscal authority to a particular school district will cease to be operative once that district has been consolidated with one or more districts to form a new district.

TO: Attorney
School District

QUESTION PRESENTED:

Would the authority of Sumter School District No. 17 to incur bonded indebtedness not to exceed 20% of the assessed value of all property within the district be eliminated by consolidation of District No. 17 into a new district with Sumter School District No. 2?

AUTHORITIES CITED:

Article 10, § 5, Constitution of South Carolina;

Article 10, § 5(79), Constitution of South Carolina;

78 C.J.S., SCHOOLS AND SCHOOL DISTRICTS § 57;

[Walker v. Bennett](#), 125 S.C. 389, 118 S.E. 779, (1923);

[Miller v. Farr](#), 243 S.C. 342, 133 S.E.2d 838, (1963).

DISCUSSION:

Limitations on the maximum amount of bonded indebtedness are established by Article 10, § 5, of the Constitution which provides in pertinent part:

‘The bonded debt of any county, township, school district, municipal corporation or political division or subdivision of this State shall never exceed eight per centum of the assessed value of all the taxable property therein.’ [Emphasis Added]

Numerous subsections following this limitation create exceptions for various school districts and other subdivisions of the State.

School District No. 2 of Sumter County remains subject to the 8% limitation. School District No. 17 of Sumter County, on the other hand, has been excepted from this limitation by Subsection 79 of Article 10, § 5, which provides in part:

‘[T]he limitations as to bonded indebtedness imposed by this section shall not apply to School District No. 17 of Sumter County, and . . . School District No. 17 of Sumter County may incur bonded indebtedness to an amount not exceeding twenty (20%) per cent of the assessed value of all taxable property therein, without regard to the amount of bonded

indebtedness now outstanding or hereafter created of any municipal corporation, or political subdivision located wholly or partly within said county.’

Should Districts 17 and 2 choose to consolidate thereby creating a new district, the new district would supercede the two districts of which it was composed and each of the constituent districts would lose its separate identity by virtue of the consolidation. A consolidated school district is described in 78 C.J.S., SCHOOLS AND SCHOOL DISTRICTS § 57 at 778 as follows:

‘[O]ne which is made up by the consolidation of two or more adjacent common or ordinary school districts or parts of districts or territory, and it is a legal entity separate and distinct from its component districts. A consolidated or union school district has no status different from a district created from territory theretofore unorganized, or any other district, and it is distinguished only by the fact that it has been formed by the consolidation of two or more school districts into one.’

*2 Upon consolidation, Districts 17 and 2 would lose their individual identities and the new consolidated district would be subject to the general laws of this State governing the authority and powers of a school district. The fiscal authority of each constituent district would be destroyed and the debts of each would become obligations of the consolidated district. See [Walker v. Bennett](#), 125 S.C. 389, 118 S.E. 779 (1923); [Miller v. Farr](#), 243 S.C. 342, 133 S.E.2d 838 (1963).

In [Walker, supra.](#), the Court noted the effect of consolidation upon the authority vested in each constituent district and upon the debts accumulated in each:

‘Upon the consolidation of the districts by legislative Act the entity of the districts as such was destroyed. So far as the fiscal authority of the constituent districts was concerned, that was absolutely destroyed by the consolidation. The result was, however, not that the debts were not still subsisting obligations, but that they became obligations of the consolidated district which likewise succeeded to the property of the constituent districts. The result is that the bondholders of the constituent districts have as security for their debts, not the separate property of the old school districts, but the entire property of the consolidated districts.’ 125 S.C. at 398, 399.

In a more recent case, [Miller v. Farr, supra.](#), the Court again faced the question of the effect of consolidation upon the authority that had been vested in the constituent districts. In [Miller](#) the Court held that a constitutional amendment to Article 10, § 5, increasing the debt limitation and requiring voter approval for incurrence of bonded debt as to Union School District No. 11, Union County, did not perpetuate District No. 11 as an entity and was not applicable to a consolidated school district created from all the school districts, including District No. 11, within Union County. Noting that individual school districts have no permanent existence under the Constitution of South Carolina the Court interpreted the Amendment to Article 10, § 5, which raised the bonded debt limitation of the then existing District No. 11 from 8% to 20% of the assessed value of all the taxable property therein as being applicable only to the former District No. 11 and as having no effect on the new consolidated district. It was accordingly reasoned by the Court that the Amendment to Article 10, § 5, did not serve to perpetuate the former school district as a political or fiscal entity and ceased to be operative once the district was consolidated into a larger district.

CONCLUSION:

A constitutional or statutory grant of fiscal authority to a particular school district will cease to be operative once that district has been consolidated with one or more districts to form a new district. Thus, should Sumter School District No. 17 consolidate with District No. 2, an entirely new school district will be created possessing none of the peculiar fiscal authority of either constituent district. Rather, the new district would be subject to the general constitutional limitation on bonded indebtedness to 8% of the assessed value of all taxable property within the district.

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