

1974 WL 27980 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 1, 1974

*1 (1) In Allendale County the bonded indebtedness limit for school districts is 8% of the assessed value of the taxable property therein and the County's bonded limit is 15% of the assessed value of the taxable property within the County.

(2) The millage is set in Allendale County when the revenue needs for the County, school districts and other taxing districts are known.

(3) In Allendale County the school trustees may issue bonds provided the requirements for the issue are satisfied.

Honorable James P. Harrelson
Senator
District No. 15
Walterboro, South Carolina 29488

Dear Senator Harrelson:

Reference is made to your request for the opinion of this office concerning the below questions and our opinion is stated separately under each question.

1. What is the debt limitation of Allendale County? Is it full eight (8%) percent for schools or general purposes?

It is presumed that the taxes referred to are (a) county taxes and (b) school district taxes. Under this presumption, the taxes are imposed by two separate political entities.

The school districts are therefore governed by the provisions of Article 10, Section 5 of the Constitution, and this limits the school districts' bonded indebtedness to eight (8%) percent of the assessed value of the taxable property in the district. (The school districts were formerly covered by Article 10, Section 5(8), however, were removed therefrom by Act 84, Acts of 1965, that ratified an amendment providing such.)

The county's bonded indebtedness is provided for by subsection 118 of Article 10, Section 5, and the same is limited to fifteen (15%) percent of the assessed value of the taxable property within the county.

2. Who can raise the millage in Allendale County?

The millage is actually set by the auditor, however, such is done to produce the amount of revenue needed by the county. Section 65-1772. The auditor, under this statute, has no discretion and the millage is ascertained by a division of the assessed value of the taxable property into the budget or revenue needs. Act 29, Acts of 1967, provides that the government and fiscal affairs of the county shall be administered by a county board of directors, however, this board does not set the budget for the schools. (See Act 112, Acts of 1965).

3. Who has authority to issue bonds for capital improvement on schools?

It is again assumed that we are talking about school districts and the bonded indebtedness thereof.

Article 10, Section 5 of the Constitution, provides authority to the corporate authorities of * * * school districts * * * to levy and collect taxes for corporate purposes and Section 21-971, et seq. provides authority to the school trustees to issue the bonds, however, the requirements of these sections must be met.

Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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