

1973 WL 26723 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 1, 1973

*1 The Honorable E. P. Riley
County Attorney
Greenville County
Messrs. Riley & Riley
Attorneys at Law
Post Office Box 10084, F.S.
Greenville, South Carolina 29603

Dear Ted:

Thank you for your letter of April 18 concerning the authority of the Greenville County Council to increase the millage for the Greenville County 'useum Commission, the Greenville Library Commission, the Greenville County Recreation District, and the Auditorium District.

I have not run down the Auditorium District, as its Act does not appear to have been codified, but my view with respect to the other entities will apply to it as well, depending upon the phraseology of its organic act.

The Huseum Commission, the Library Commission, and the Recreation District were all separate political subdivisions, and with respect to each of them (and possibly the Auditorium District), the General Assembly has directed the Auditor and Treasurer to assess and collect a specific maximum millage for the support of these subdivisions. It appears that these are limited to one-fourth of a mill, two and three-fourths mills, and two and one-half mills, respectively. 65 Acts 744, 68 Acts 3151, and 72 Acts 3128.

It is my view, which coincides with yours, that the General Assembly has relegated to itself the power to fix millage for the support of these different activities and which will require a statutory change to alter the millage.

The organic act creating the Greenville County Council and authorizing it to levy taxes and make appropriations for corporate purposes relates only to those county purposes which the General Assembly has vested in the County itself. In my opinion, it is highly doubtful if the millage could be imposed for the support of these separate subdivisions even if the General Assembly had not specifically designated the limits of the millage which might be imposed by the Auditor and Treasurer. These subdivisions are separate units of government, being special service districts which have their own governmental structure and purpose, and are not, in ordinary contemplation, part of the government of Greenville County. Additionally, it is my view that Article 10, Section 6 of the Constitution is still applicable to counties in spite of the adoption of the local government amendment, although was not intended to be this way, but due to the failure of the General Assembly to submit the revised Article 10 for vote at the last General Election, the two Articles as presently existing must be read together. Therefore, I do not believe that the County can undertake any action with respect to the Recreation District.

With respect to allocation of revenue sharing funds to governmental agencies contrary to the constitutional provisions, it is my opinion that this can be done, as Article 10, Section 6, is not applicable to the expenditure of funds unless they are derived from county taxation, and revenue sharing money is not so derived. [Elliott v. McNair, 250 S.C. 75, 85, 156 S.E.2d 421.](#)

*2 With respect to the allocation of revenue sharing funds to private charitable organizations, this presents a rather difficult question. In the material I have on revenue sharing, I do not find any reference to such matters. One document which I have from

the revenue sharing people states that there are certain priorities for local expenditures and the funds may only be used for these purposes. These include public safety, environmental protection (which includes also sewage disposal, sanitation and pollution abatement), public transportation, health, recreation, libraries, social services for the poor or aged, financial administration, and ordinary and necessary capital expenditures authorized by law, The instructions also say that no unit of local government may use funds for non-priority expenditures.

Your specific inquiry should probably be directed to the Regional Office, which is: Atlanta Regional Council, 50 Seventh Street, N.E., Atlanta, Georgia 30323, telephone (404) 526-5817.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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