

1973 WL 26737 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 10, 1973

***1 Re: No. 259—Schools**

Mr. W. N. Clinkscales, Jr.
Member
House of Representatives
State House
Columbia, South Carolina 29211

Dear Mr. Clinkscales:

You have questioned the validity of a proposed bill which, if enacted, would authorize the Board of Trustees of School District No. 5 of Anderson County, South Carolina, to issue general obligation bonds not to exceed \$1,630,000.00. Specifically, you are concerned with Section 10 of the proposal, which reads in part:

In the payment of the principal and interest of all bonds issued pursuant to this act, as they respectively mature, and for the question of such sinking fund as may be necessary therefore [sic], the full faith, credit and taxing power of the School District shall be irrevocably pledged, and there shall be levied annually by the Auditor of Anderson County, and collected by the Treasurer of Anderson County . . . a tax without limit, on all taxable property in the School District, sufficient to pay the principal and interest of such bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Article 10, Section 5 of the Constitution of South Carolina limits the bonded indebtedness of School District No. 5 of Anderson County to twenty-five (25%) per cent of the assessed value of all taxable property situated therein. See, S. C. Const. Art. 10, § 5[115]. We have been informed by you that at the present time the assessed value of all taxable property in School District No. 5 is \$32,000,000.00, and that, as of July 1, 1972, the School District had a bonded indebtedness of approximately \$8,376,000.00, or an amount which exceeds the debt limit by \$376,000.00. In the event bonds totalling \$1,630,000.00 are issued by the School District, the bonded indebtedness, we are told will amount to approximately \$10,006,000.00, an amount greatly exceeding the twenty-five (25%) per cent debt limitation.

Of course, the bill on its face is constitutional. Section 2 of the proposal expressly states that the trustees are only authorized to issue general obligation bonds of the School District in such an amount 'as shall, on the occasion of the issuance of any bonds pursuant to the . . . act, be within the constitutional debt limitation then applicable to the School District.' The limitation contained within Article 10, Section 5[115], therefore, is recognized; and the proposal expressly subjects any bond issue authorized by it to that limitation.

While the bill is constitutional on its face, any bond issue which it authorizes that exceeds the debt limitation contained in Article 10, Section 5[115] would violate that constitutional provision as well as Section 2 of the proposed act; hence any such bond issue would be invalid. If the information which you have provided us is accurate, the Board of Trustees of School District no. 5 of Anderson County could not now lawfully issue general obligation bonds pursuant to the proposal because the debt limitation would be exceeded, and substantially so. Before any bonds could lawfully be issued by the Trustees either the existing indebtedness would have to be greatly reduced or an amendment to the Constitution increasing the debt limitation above twenty-five (25%) per cent would have to be approved.

Sincerely,

*2 C. Tolbert Goolsby, Jr.
Deputy Attorney General

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