

1973 S.C. Op. Atty. Gen. 161 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3533, 1973 WL 20993

Office of the Attorney General

State of South Carolina

Opinion No. 3533

May 31, 1973

\*1 The Honorable E. Juetta Wright  
Member  
House of Representatives  
Anderson County  
Route 1  
Belton, South Carolina 29627

Dear Mr. Wright:

You have inquired as to the validity of an appropriation provided for in the Anderson County Supply Act. I have not seen the proposed Supply Act for Anderson County for the next fiscal year, but I am informed that it is identical with previous appropriations concerning the same subject. The current Act, on which this opinion is based, is the 1972–73 Appropriations Act which directs that a tax be levied upon property in Anderson County to pay the appropriations made in the County Appropriations Act. Included among these is the following:

‘Item P—Miscellaneous (9) Planning and Development Board . . . \$100,000.00’

I have previously expressed the opinion that appropriations for a County Development Board violate the provisions of the Constitution of South Carolina, specifically, Article 10, Section 6 thereof, in that it is not an appropriation for an ordinary county purpose. The opinion is enclosed herewith. This opinion, as noted, was written in 1959 and the Constitution of this State has been recently amended, in March, 1973, so as to incorporate in the Constitution the Local Government Amendment, now designated as Article 8. I have heretofore expressed the conclusion that the older provisions of the Constitution contained in Article 10, Section 6, are still effective, but that they must be considered in the light of the Local Government Amendment which was ratified in March, 1973. At the same time, I expressed the opinion that the only effect which the new constitutional amendment would have is to raise the possibility that the Supreme Court of this State may adopt a more liberal view with respect to the meaning of ‘ordinary county purposes.’ The new constitutional amendment has not yet been construed by the Supreme Court and any expression of opinion as to whether the views of the Supreme Court would be affected by the new constitutional amendment is necessarily speculative. If that Court adheres to the strict construction which it has heretofore followed, it is my opinion that an appropriation of the type referred to will be found unconstitutional. If the Court adopts a different construction, it may uphold the validity of such an appropriation. It is my opinion that it most probably will not uphold such an appropriation.

In the light of the new constitutional provisions, it is my opinion that an appropriation for a County Development Board is probably unconstitutional as not being within the purposes for which county-tax derived funds may be spent. I emphasize that there is some degree of speculation involved in such a conclusion. If funds are not derived from county taxes, the Supreme Court has held that the counties are not restricted by the constitutional provisions referred to.

Very truly yours,

Daniel R. McLeod

\*2 Attorney General

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