



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

September 3, 2003

The Honorable Ronald P. Townsend
Member, House of Representatives
P. O. Box 11867
Columbia, South Carolina 29211

Dear Representative Townsend:

In a letter to this office you raised a question regarding Act No. 581 of 1994 which provides as follows:

(D) The tax millage for each district may not increase more than eight mills in a fiscal year without the prior approval of a majority of the qualified electors of the district in a referendum. However, the millage for a district may be increased by an additional two mills to a total of ten mills without the requirement of a referendum if the county board of education determines that the district has demonstrated a hardship or emergency situation and the hardship or emergency situation does not require a recurring allocation of funds. (emphasis added).

You asked the following question:

In a year of reassessment, does reducing the base student cost from \$2,201 per student under the Education Finance Act (EFA) formula down to \$1,643 qualify for an emergency hardship for up to 10 mills under Section (D) of Act 581.

The terms "emergency situation" or "hardship" are not defined by Act No. 581. I am also unaware of any similar use of the terms in other statutes which would provide guidance in responding to your question. Similarly, I am unaware of any prior opinions of this office which are responsive to your question. As a result, I can only advise that it would be a matter for the board of education to determine on a case by case basis as to what constitutes an "emergency situation" or "hardship" for purposes of the legislation. As set forth by the legislation, the determination of such is a matter for the county board of education.

Sincerely,

Charles H. Richardson
Senior Assistant Attorney General