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LeMay

The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

January 23, 1998

Paul N. Siegel, Esquire  
Siegel and Bonds  
P.O. Box 1143  
Walterboro, SC 29488

Dear Paul:

As Colleton County attorney, you have asked whether the Colleton County School District may call for a school bond referendum without the consent of County Council. This matter appears to be controlled by the School Bond Act, S.C. Code Ann. §59-71-10, et seq., (1990).

Under that Act, a school district may call for an election for the issuance of general obligation bonds coming within the terms of that law. See §§ 59-71-20, 59-71-30. Taxes are to be levied by the auditor and collected by the Treasurer under §59-71-150. A previous opinion of this Office held that "...no discretion [is] vested in the governing body or other officials thereof as to whether the tax is to be levied. The only task is for the auditor to determine the number of mills necessary to raise the required revenue." Ops. Atty. Gen. (March 26, 1985). Nothing in this law or in the local laws for Colleton County appears to require or provide for the input of the County Council. See eg. 59-71-20(1). The authority given to County Council related to the levy of school taxes in Act No. 257, 1979 S.C. Acts 956 appears to be confined to the operating budget and does not indicate any legislative intent to create an exception to the School Bond Act.<sup>1</sup>

<sup>1</sup> "The ... primary function in interpreting a statute is to ascertain the intention of the legislature...." South Carolina Department of Highways and Public Transportation v. Dickinson, 281 S.C. 134, 341 S.E. 2d 134 (1986).

Request Letter

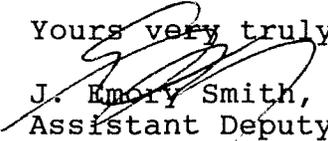
Paul N. Siegel, Esquire  
January 23, 1998  
Page 2

The legislature has made not provision for the School District to obtain the input of County Council before holding a school bond referendum under the School Bond Act. Of course, the District should consult with its bond attorney as to the bond issue.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

If you have further questions, please let me know.

Yours very truly,

  
J. Emory Smith, Jr.

Assistant Deputy Attorney General

JESjr