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February 19, 1988

A. G. Solomons, Jr., Esquire
Hampton County Attorney
Solomons and Lawton
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Dear Algie:

As Hampton County Attorney, you have requested the opinion of this Office as to whether the following provision of the Home Rule Act, §4-9-70 of the Code of Laws of South Carolina, 1976, gives the Hampton County Council the authority to consolidate the school districts in Hampton County:

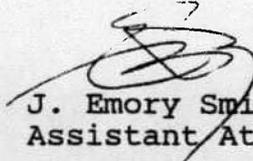
The provisions of this chapter shall not be construed to devolve any additional powers upon county councils with regard to public school education...provided, however.... In counties containing more than one school district, where all such districts are located wholly within the boundaries of the county, council may by ordinance establish county-wide school tax millage....

Under a plain reading of this provision (South Carolina Department of Highways and Public Transportation v. Dickinson, 341 S.E.2d 134 (S.C. 1986)), no authority to consolidate the school districts is conferred upon county council because the provision addresses only taxation. This conclusion is supported by construing the county-wide taxation passage with reference to the other language in §4-9-70 set forth above which states that the home rule laws shall not be construed to devolve additional powers as to public school education upon county councils and by the legislature's having set forth provisions for school consolidation elsewhere in the Code (§§59-17-40 and 59-17-50). See, Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d

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376 (1970); Sutherland Statutory Construction, Vol. 2A, §§46.05 and 51.02. Therefore, §4-9-70 provides no authority for the Hampton County Council to consolidate Hampton County school districts.

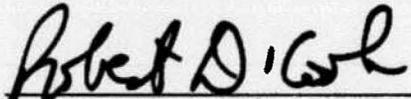
Yours very truly,



J. Emory Smith, Jr.
Assistant Attorney General

JESJR/srcj

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions