

1981 WL 158199 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 23, 1981

***1 Re: Senate Bill No. 314**

Honorable Harris P. Smith
Senator
Pickens, Abbeville, Anderson and Oconnee Counties
Senate Office No. 4
Marion Gressette Building
Columbia, South Carolina 29211

Dear Senator Smith:

I am writing in reference to your letter of March 19, 1981 in which you requested an opinion as to whether Senate Bill No. 314 was in violation of [Article III, § 15 of the Constitution of the State of South Carolina](#). As you are aware, a similar request was made in regards to Senate Bill No. 2. I have drafted an opinion as to the application of the restrictions set forth in [Article III, § 15](#) to Senate Bill No. 2 (copy of opinion enclosed).

The principles set forth in the above mentioned opinion which apply to Senate Bill No. 2 are equally applicable to Senate, Bill No. 314. In addition, I direct your attention to Attorney General's Opinion 1964-65, Opinion No. 1817, p. 66.

By way of summary, the case of [State v. Stanley, 131 S.C. 513, 127 S.E. 574, 1925](#), set forth the principle that the Court would strictly construe the definition of 'revenue measure' within the Constitutional provision of [Article III, § 15](#). In the Court's opinion, the term 'revenue measure' is limited to bills which raise revenue in the strict sense of the word as distinguished from those measures which indirectly or incidentally create revenue.

In order to come within the Constitutional restrictions governing the origination of bills raising revenue, the bill must generate revenue which flows into the general state treasury to meet the general obligations of state government. See [Mikell v. Philadelphia, 359 Pa. 113, 58 A.2d 339](#).

Along these same lines, it can be stated that if the object of the taxation is purely local and in furtherance of local purposes, it is not within the Constitutional restriction of [Article III, § 15](#). See [Rankin v. Henderson, 9 Ky.L.R. 861, 7 S.W. 174, 4 A.L.R.2d 984, 985](#).

The [Mikell](#) case and the [Rankin](#) case developed what can be termed a local purpose theory. That is, if the revenue is intended for local purposes as opposed to defraying the expenses of the general government of the state, it is not a revenue measure within the restrictions set forth in [Article III, § 15](#).

A more recent case which follows this local purpose theory is [Smith v. Davis, 426 S.W.2d 827](#). In this case, a bill originated in the Texas State Senate to amend the procedure for assessing property for tax purposes in certain hospital districts. The Court held that this particular provision did not levy taxes for general purposes of the State and therefore was not a bill for raising revenue within the constitutional meaning.

A review of Senate Bill No. 314 indicates that the purpose of this bill is to enable local government units to finance redevelopment projects through bond issues. The debt service of this indebtedness is to be paid for from the added increment

of tax revenues to result from the increase in property values which may come about as a result of the redevelopment of blighted areas. The funds derived from the tax increment financing plan are utilized to either retire the bond indebtedness or are distributed to the local taxing authorities. The bill does not provide for the return of any excess tax revenue to the general fund of the State.

*2 As a practical matter, this bill does not increase taxes or generate revenue for defraying the expenses of state government functions. Any revenue which may be raised from this bill is purely incidental within the meaning of the State v. Stanley case, supra, and therefore is not a revenue measure within the constitutional restriction.

In addition, this bill operates solely on the local government level with the approval of the local governing units. It is not a statewide measure to increase the revenue for the general use of the state. Therefore, it would seem that Senate Bill No. 314 is intended for local purposes and is therefore not a revenue measure within the purview of the Mikell v. Philadelphia case, the Rankin v. Henderson case, or State v. Davis, all supra.

Based upon the reasons stated above, and the principles set forth in the opinion of this office regarding Senate Bill No. 2, it is the opinion of this office that Senate Bill No. 314 is not a revenue raising measure which must originate in the House of Representatives as provided for in [Article III, § 15 of the Constitution of the State of South Carolina](#).

Very truly yours,

Evans Taylor Barnette
Assistant Attorney General

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