

1981 WL 158213 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 1, 1981

***1 SUBJECT: Taxation—Constitutionality of a Specific Penalty for Failure to Timely Pay Property Taxes in Marion County.**

A bill that provides a specific penalty for late payment of property taxes in Marion County is unconstitutional in that it conflicts with Article VIII, § 7 and [Article III, § 34 of the South Carolina Constitution](#).

Honorable Richard W. Riley
Governor of South Carolina

QUESTION:

A bill has been ratified and sent to your office for approval that provides a specific penalty in Marion County for failure to timely pay property taxes. The penalty is different in amount and in the time of levy from that provided by general law. You request the opinion of this office of whether the bill is constitutional.

APPLICABLE LAW:

[Article VIII, § 7](#) and [Article III, § 34\(IX\)\(X\)](#).

DISCUSSION:

The penalty for late payment of ad valorem taxes as provided by general law is found in §§ 12-45-180 and 12-51-30, et seq. (the alternate procedure for the collection of delinquent taxes). The penalty provided in the bill under consideration differs in amount and in time of levy from those provided by general law. The bill further is limited to Marion County. There is thus conflict with [Article VIII, § 7](#) that provides in part that:

‘No laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected alternative form of government.’

Additionally, the bill would conflict with the provisions of [Article III, § 34](#) in that it is special or local legislation when a general law could be or is applicable.

A similar issue was before our court in [Webster v. Williams](#), 183 S.C. 368, 191 S.E. 51, 54, 111 A.L.R. 1348, and in [Douglas v. Watson](#), 186 S.C. 34, 195 S.E. 116. In [Webster](#) the court considered a special act that provided for specific penalties for nonpayment of taxes in Orangeburg County. In [Douglas](#) an act that gave special advantage to Chesterfield County in the collection of delinquent taxes was considered. After concluding the subject to be one covered by general law, both acts were struck as being in conflict with [Article III, § 34](#). The following statement from [Webster](#) is here applicable:

‘If there is anything in the situation of Orangeburg county to differentiate the tax problem there from that prevailing in other counties of the state (assuming, without deciding, that this could affect the principle now under discussion), the record fails to disclose it. We are dealing with legislation that very clearly on its face extends by additional charges the consequences of the failure to pay taxes in Orangeburg county.’

We have, then, a subject which is in fact covered by the general law of the state, and as to which the Legislature has here undertaken to make a special and different provision, by a separate enactment, for Orangeburg county only.

We are unable to perceive how such a statute can escape the literal condemnation of the constitutional provision above referred to, which provision condemns a local law made to cover a situation 'where a general law can be made applicable'.

CONCLUSION:

*2 It is the opinion of this office that a bill that provides a specific penalty for late payment of property taxes in Marion County is unconstitutional in that it conflicts which [Article VIII, § 7](#) and [Article III, § 34 of the South Carolina Constitution](#).

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Deputy Attorney General

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