

1981 S.C. Op. Atty. Gen. 69 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-46, 1981 WL 96572

Office of the Attorney General

State of South Carolina

Opinion No. 81-46

May 15, 1981

***1 SUBJECT: Constitutional Law—Revenue Bills**

A bill that would confer authority to school districts to levy and collect a sales tax may originate in the Senate.

TO: Honorable Ryan C. Shealy
Senator
District No. 8, Office No. 4

QUESTION:

Could a bill that authorizes the school districts of the State to levy and collect a sales tax constitutionally originate in the Senate?

APPLICABLE LAW:

[Article III, Section 15, South Carolina Constitution.](#)

DISCUSSION:

The Article provides:

‘Bills for raising revenue shall originate in the House of Representatives, but may be altered, amended or rejected by the Senate; all other Bills may originate in either house, and may be amended, altered or rejected by the other.’

Only a ‘bill for raising revenue’ must originate in the House of Representatives. A bill that delegates the power to levy and collect a tax to political subdivisions is not a ‘revenue bill’ within the prohibition.

‘* * * laws delegating authority to local governmental units to levy and collect taxes for local purposes are not bills for ‘raising revenue.’ 71 Am.Jur.2d, [State and Local Taxation](#), § 9, p. 350.

‘Bills for raising revenue’ within the meaning of these constitutional limitations have always been confined to those which levy taxes in the strict sense of the term as distinguished from those which merely appropriate money from the public treasury, or indirectly or incidentally create revenue as in the case of regulatory licensing statutes, or which authorize local governmental bodies to levy and collect taxes for their own uses and purposes.’ 4 A.L.R.2d, § 2, p. 975. (Emphasis added)

‘The Constitution ‘providing that revenue bills shall originate in the House or Representatives only applies to bills to levy Taxes, in the strict sense of the word, and not to bills for other purposes, which may incidentally raise revenue.’ [United States v. James, Fed. Cas. No. 15, 464, 13 Blatchf. 207; Dundee Mortg. Trust Inv. Co. v. Parrish \(C.C.\) 24 F.197; Perry County v. Selam, M. & M.R. Co., 58 Ala. 546; Fletcher v. Oliver, 25 Ark. 289; Harper v. Commissioners, 23 Ga. 566.](#) [State v. Stanley, 131 S.C. 513, 127 S.E. 574.](#)

The majority view is that the tax bill prohibited is one in which the tax imposed is to be 'coverable into the treasury of the exacting sovereign for general governmental uses.' [Mikell v. Philadelphia School District](#), 359 Pa. 113, 58 A.2d 339, 4 A.L.R.2d, p. 962.

CONCLUSION:

It is thus the opinion of this office that a bill that would confer authority to school districts to levy and collect a sales tax may originate in the Senate.

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