1982 WL 189382 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
July 26, 1982

***1 SUBJECT: Taxation—Limitation Provided By § 12-43-280**
Section 12-43-280 requires that the thirteen mill levy provided by Act 186, Acts of 1963, be reduced so that the taxes do not exceed the limitation of § 12-43-280.

Mr. Harold C. Davis
Executive Secretary
Spartanburg County Board of Education

QUESTION:

Does the limitation provided by § 12-43-280 apply to the thirteen mill levy prescribed by Act 186, Acts of 1963?

APPLICABLE LAW: § 12-43-280, 1976 Code of Laws; Act 186, Acts of1963.

DISCUSSION:

Section 12-43-280 provides in part that

'Notwithstanding any other provision of law * * *.'

The section then provides a limitation for tax increases 'caused by' an equalization and reassessment program. The 1963 act prescribes that thirteen mills shall be levied to guarantee a minimum foundation program of public school education.

Section 12-43-280 is controlling. The General Assembly has provided that § 12-43-280 is 'notwithstanding' the 1963 act. 'The word 'notwithstanding' is one in opposition to and not one in compatibility with another statute and actually means in spite of.' Theodore Roosevelt Agency, Inc. v. General Motors Acceptance Corp., 156 Colo. 237, 398 P.2d 965. (For other cases, see 28A Words and Phrases)

An assumption is made that Spartanburg County will implement a reassessment and equalization program for 1982. It is further assumed that the assessed value of property will increase. Under such assumption there would be a tax increase caused by the program if the thirteen mill levy is not reduced. This is the kind of tax increase that the section prohibits.

CONCLUSION:

Section 12-43-280 requires that the thirteen mill levy provided by Act 186, Acts of 1963, be reduced so that the taxes do not exceed the limitation of § 12-43-280.

Joe L. Allen, Jr.

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Deputy Attorney General

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