

1977 WL 37259 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 3, 1977

*1 Senator Samuel B. Mendenhall
P. O. Box 342
Rock Hill, South Carolina 29730

Dear Senator Mendenhall:

You have requested an opinion from this Office as to whether or not a bill relating to the levy of taxes in York County for school purposes would be valid legislation if enacted. In my opinion, it would be.

While Section 14-3704, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), does authorize a county council to establish county-wide school tax millage in a county containing more than one school district, where all such districts are located wholly within the county, the exercise of that authority is subject to the proviso immediately following thereafter: Provided, further, that in any county where the General Assembly retained the authority to establish or limit the millage levied by school districts or levy a tax for educational purposes, on January 1, 1974, such authority shall continue in the General Assembly until such time as such authority may be transferred to the school district or the county governing body by act of the General Assembly. . . .

As you know, the General Assembly did retain the authority described in the proviso hereinabove quoted on January 1, 1974, as far as York County is concerned. See, 58 STAT. 1922 (1973). Therefore, until and unless the General Assembly devolves that authority either upon the individual school districts or upon the county governing body in York County, it remains in the General Assembly. See generally, [Moye v. Caughman](#), 265 S.C. 140, 217 S.E.2d 36 (1975).

In response to your second question, I think that the General Assembly can continue to set individual school district levies in York County pursuant to the proviso hereinabove quoted since it possessed that authority on January 1, 1974.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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