

1977 S.C. Op. Atty. Gen. 171 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-223, 1977 WL 24565

Office of the Attorney General

State of South Carolina

Opinion No. 77-223

July 18, 1977

*1 Act No. 501, Acts of 1976, is not invalid on constitutional grounds as the same provides the authority and procedure for a district exercising taxing power to change the millage levied.

TO: Attorney at Law

QUESTION

Act No. 501 of the 1976 General Assembly valid

DISCUSSION

Act No. 501 provides authority for special purpose districts to change the tax millage of the district. The change is accomplished in a two-step process.

1. The district may request the commissioners of election of the County in which the district is located to conduct a referendum to propose a change in the tax millage of the district.

2. Upon receipt of such requests, the commissioners of election shall schedule and conduct the requested referendum on a date specified by the governing body of the district. If a majority of the qualified electors of the district favorably vote upon the proposed tax millage change, the governing body of the district shall by resolution, adopt the millage rate which shall thereupon have full force and effect of law.

In Section 6 of Article 10 the following language is found:

‘The General Assembly may vest the power of assessing and collecting taxes in all of the political subdivisions of the State. Property tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes: provided, that on properties located in an area receiving special benefits from the taxes collected, special levies may be permitted by general law applicable to the same type of political subdivision throughout the State, and the General Assembly shall specify the precise condition under which such special levies shall be assessed.’

As Act No. 501 provides a means by which tax millage may be changed, and as Article 10 of the South Carolina Constitution permits such changes to be made as long as the General Assembly has vested such power, it is the opinion of this office that the Act is valid and in keeping with Article 10 of the Constitution.

Further, the Act is not contrary to the provisions of Article 10 prior to amendment as it states the procedure to be followed by a special purpose district exercising taxing authority when such district proposes to change its levy.

CONCLUSION

It is the opinion of this office that Act No. 501 is not invalid on constitutional grounds, as the same provides the authority and procedure for a district exercising taxing power to change the millage levied.

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