

1976 WL 30674 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 18, 1976

*1 Representative C. L. Powell
State House
Columbia, South Carolina

Dear Representative Powell:

You have requested an opinion from this Office as to which governing bodies in Abbeville County presently are authorized to levy taxes and incur bonded indebtedness for schools and other educational purposes.

By Act No. 32 of 1973, the Abbeville County Board of Commissioners was created as that County's governing body. 58 STAT. 28 (1973). Section 6 of that Act authorizes the Board, in part, as follows:

5. [t]o make appropriations and levy taxes therefor for . . . educational purposes, . . .

9. [t]o issue bonds pledging the faith and credit of Abbeville County for . . . educational purposes, . . .

Clearly, then, the Abbeville County Board of Commissioners has the authority to levy taxes and incur bonded indebtedness for educational purposes.

There is, however, another body in Abbeville County which is presently authorized to levy taxes and incur bonded indebtedness for school purposes and that body is the Board of Trustees of School District No. 60 of Abbeville County. By Section 2 of Act No. 518 of 1971, the Board of Trustees is empowered to:

. . . issue, as a single issue, or from time to time as several separate issues, general obligation bonds of the district to such extent as, . . . is permitted by the constitutional debt limitation applicable to the district. 57 STAT. at 985 (1971).

The constitutional debt limitation hereinabove referred to is an amount 'not exceeding eighteen (18%) percent of the assessed value of all taxable property' located within School District No. 60. See, 57 STAT. 11 (1971). Section 2 of Act No. 518 of 1971 also sets forth the purposes for which the Board of Trustees can issue its general obligation ponds, to wit:

[i]n order to provide a means whereby the district may raise moneys to construct and equip further public school buildings, and in order to provide funds for additions, enlargements and improvements to existing public school facilities, . . . 57 STAT. at 985 (1971).

Section 10 of that Act authorizes the pledge of the full faith, credit and taxing power of School District No. 60 to the payment of the principal and interest on all bonds issued pursuant thereto and also authorizes the annual levy of a tax on all taxable property

therein sufficient to pay the principal and interest on all such bonds. Section 1 of that Act states that the General Assembly has determined to authorize the Board of Trustees . . . to raise money through the sale of bonds until the authorization herein contained be rescinded by subsequent enactment, . . . [Emphasis added.]

In my opinion the 1973 Act authorizing the Board of Commissioners to levy taxes and issue bonds for educational purposes has not effected a rescission of the 1971 Act and both Acts can be read harmoniously with each other. Cf., § 14-1169(5), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, and 55 STAT. 470 (1967), as amended (relating to Charleston County); see also, Grey v. Vaigneur, 243 S.C. 604, 135 S.E.2d 229 (1964).

*2 The opinion of this Office is, therefore, that both the Abbeville County Board of Commissioners and the Board of Trustees of School District No. 60 in Abbeville County are empowered to levy taxes and issue bonds for the purposes hereinabove specified; if, however, the School District Board of Trustees intends to levy taxes and issue bonds for purposes other than those delineated in Act No. 518 of 1971, e.g., for the refunding of a deficit of the School District, the General Assembly must so authorize it.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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