

1976 WL 30437 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 26, 1976

*1 Joseph H. Earle, Jr., Esquire
County Attorney
First Federal Building
301 College Street
Greenville, South Carolina 29601

Dear Mr. Earle:

With apologies for the delay, I am responding to your request for an opinion from this Office as to whether the Greenville County Council or the Greenville County Legislative Delegation has the authority to increase the levy for the Greenville County Library.

The Greenville County Library was created by Act No. 247 of 1961 [52 STAT. 431 (1961)] which Act also specified a levy of two and one-fourth mills for its support and maintenance. Subsequently, the tax millage was raised to two and three-fourths mills by Act No. 1360 of 1968 [55 STAT. 3151 (1968)] and to seven mills by Act No. 1104 of 1974 [58 STAT. 2351 (1974)].

Any additional special legislation to increase the levy is certainly constitutionally suspect by virtue of the construction placed by the State Supreme Court upon the provisions of Article VIII, Section 7 of the South Carolina Constitution of 1895, as amended. See, e.g., [Neel v. Shealy](#), 261 S.C. 266, 199 S.E.2d 542 (1973); [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1974); [Thorne v. Seabrook](#), 264 S.C. 503, 216 S.E.2d 177 (1975) (concurring opinion of Moss, C.J. and Littlejohn, A.J.); [Kleckley v. Pulliam](#), 265 S.C. 177, 217 S.E.2d 217 (1975). Until that Court more clearly delineates the scope of the 'no laws for a specific county' language of Article VIII, Section 7, my opinion is that such an act might very well be unconstitutional.

On the other hand, the act creating the present Greenville County Council, i.e., Act No. 573 of 1967, as amended, and specifically, Section 9(e) thereof, is probably broad enough to empower the Council to raise the levy. Section 9(e) gives the Council the power:

To levy taxes . . . and make appropriations for corporate purposes . . . maintenance and support of prisoners; compensation of jurors . . . and for ordinary county purposes.

An 'ordinary county purpose' is within the enumerated powers of the county under Article X, Section 6 of the S. C. Constitution and has been construed to include: public health, education and planning for purposes for which county funds may validly be appropriated. 1968-69 Ops. Atty. Gen. No. 2691. The remaining question, then, and the determinative one is whether the creation and maintenance of a library qualifies as an educational purpose. The Supreme Court of South Carolina has not ruled on this specific point, but in [Powell v. Thomas](#), 214 S.C. 376, 52 S.E.2d 782 (1949), the Supreme Court found the construction of a cattle barn and show ring on county fairgrounds to be educational within the meaning of Article X, Section 6. In light of this decision, it seems to me that a library facility would be within the meaning of 'education' under Article X, Section 6.

The opinion of this Office is, therefore, that the Greenville County Council has the authority to increase the levy for the Greenville County Library. Cf., § 14-3703(5) of Act No. 283 of 1975 [59 STAT. 692 at 696 (1975)].

With kindest personal regards,

***2** Karen LeCraft Henderson
Assistant Attorney General

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