

1976 S.C. Op. Atty. Gen. 179 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4350, 1976 WL 22969

Office of the Attorney General

State of South Carolina

Opinion No. 4350

May 14, 1976

***1** The alteration of a school district by annexing territory would affect the limit of bonded indebtedness of the annexed portion if the annexing district had a different limit. Since a bonding attorney certifies that a bond complies with all statutory/constitutional requirements such an alteration would require additional scrutiny; furthermore, the Federal Voting Rights Act creates an added dimension—any change in an electoral unit requires federal approval before becoming effective.

TO: The Honorable H. Ray Ham
House of Representatives

Questions Presented

(1) Would the annexation of an attendance area from Lexington School District No. 4 to Lexington School District No. 2 affect the limits of bonded indebtedness?

(2) Would the above change affect any certification by a bonding attorney?

Authorities

‘Where a school district or other local school organization is altered by attaching territory from another district, such territory ceases to be part of the district to which it belonged prior to such alteration and becomes a part of the district to which it is attached.’ 78 CJS, Schools, Sections 48 and 400. See also [Walpole v. Wall](#), 153 SC 106, 150 SE 760; [Mosely v. Welch](#), 209 SC 19, 39 SE2d 133; [Tindall v. Byars](#), 217 SC 1, 59 SE2d 337; and [Nesbitt v. Gettys](#), 219 SC 221, 64 SE2d 657.

The limit of bonded indebtedness for Lexington District No. 4 is 75 percent and for District No. 2 is 20 percent. Constitution of South Carolina, Art. 10, Sec. 5[162] and [85.]

Any change affecting voting, including changes in electoral units, must be approved by the Federal Justice Department or court before implementation. [42 USC 1973 \(c\)](#).

Discussion

The annexation of a portion of Lexington School District No. 4 to District No. 2 would affect the limit of bonded indebtedness of the annexed territory since this area would be dropping from a 75 percent limitation to a 20 percent limitation. Such an alteration of the district boundaries would not have any effect on the limit to District No. 2—the annexed portion becomes part of the annexing, receiving district. Obviously, however, such an alteration would have an effect on the assessed valuation and possibly the debt since the annexed territory generally carries its proportionate share with it to its new district (See 69 Atty. Gen. Opn. 50; ⁶⁰/61 Atty. Gen. Opn. 222; 65 Atty. Gen. Opn. 35, plus cases cited under ‘Authorities’ above.)

Any bonding attorney would need to consider the effect of such an alteration on bonded indebtedness and assessed valuation in order to certify that the bonds were properly issued under applicable statutory and constitutional provisions. Furthermore, such an alteration would necessitate additional inquiry as to approval under the Federal Voting Rights Act which is a prerequisite to implementation of the proposed annexation.

Conclusion

Annexation of an area to a school district with a different limit of bonded indebtedness would require a bonding attorney to consider the effects of such as alteration before certifying that bonds were being issued in compliance with applicable law. In addition, if an alteration of district boundaries changed any electoral unit, such change is not effective until approved pursuant to the Voting Rights Act.

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