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THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

January 23, 1989

OPINION NO. _____

SUBJECT: Taxation and Revenue - Uniformity of School Taxation.

SYLLABUS: Counties and school districts are constitutionally prohibited from levying a tax only on industrial property. The tax levy must be uniformly applied to all taxable property within the political entity.

TO: Honorable G. Ralph Davenport, Jr.
House of Representatives

FROM: Joe L. Allen, Jr. *JLA*
Chief Deputy Attorney General

QUESTIONS:

1. How could a county impose an equal, county-wide tax on its industrial community, replacing the current individual industrial millage for each district?
2. Could the funds generated by such a tax be distributed back into the county educational system on a per-pupil basis?
3. If these changes are allowed as affecting the industrial millage, would this action have any effect on the individual school district's abilities to levy other millages?
4. Could you advise me as to the proper language necessary to draft legislation to achieve the purposes stated in questions 1 through 3?

APPLICABLE LAW: Article X, Section 6, South Carolina Constitution and Section 59-17-10 of the South Carolina Code of Laws, 1976.

DISCUSSION - Questions 1, 2, 3 and 4:

Article X, Section 6, of the South Carolina Constitution provides in part that:

"The General Assembly may vest the power of assessing and collecting taxes

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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; . . ."

Each school district is a separate political entity and tax district. Section 59-17-10 provides in part that:

"Every school district is and shall be a body politic and corporate, . . ."

Our court has further held that a school district and a county are separate political entities. Stackhouse v. Floyd, 248 S.C. 183, 149 S.E.2d 437; Tindall v. Byars, 217 S.C. 1, 59 S.E. 337.

The tax levy in each school district must therefore apply uniformly to all taxable property in the district. Article X, Section 6, precludes the taxation of property used for industrial purposes at a millage rate different from that applied to other taxable property within the district.

The same requirements are imposed upon a county unless there is established within the county a tax district that receives special benefits or services. (See Section 4-9-30(5).) Property within that district may be taxed at a higher rate to fund the additional services.

CONCLUSION:

Counties and school districts are constitutionally prohibited from levying a tax only on industrial property. The tax levy must be uniformly applied to all taxable property within the political entity.

JLAJr:wcg