

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

March 20, 1991

SUBJECT: Taxation and Revenue - Constitutionality of a Bill that Defines Agricultural Lands for Ad Valorem Taxation.

SYLLABUS: If Senate Bill S-450 is found to be a definition of agricultural lands, its constitutionality would most probably be upheld.

TO: Honorable John Drummond, Senator
Senatorial District No. 10

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

QUESTION: Senate Bill S-450 would amend the provisions of S.C. Code Ann. Section 12-43-220 that, inter alia, define "agricultural real property." The question is whether the proposed bill is constitutional.

APPLICABLE LAW: S.C. Const., art. X, Sections 1(4) and 2(a).

DISCUSSION:

The bill provides that:

Notwithstanding any other provision of this article, one landowner may not receive agricultural use valuation on more than two thousand acres in any one county, nor may agricultural use valuation reduce the fair market value of one landowner's real property in any one county by more than one hundred thousand dollars.

Article X, Section 1(4) provides:

The General Assembly may provide for the ad valorem taxation by the State or

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any of its subdivisions of all real and personal property. The assessment of all property shall be equal and uniform in the following classifications:

(4) Agricultural real property which is actually used for such purposes shall be taxed on an assessment equal to:

The section further provides the ratios to be applied to agricultural lands according to ownership.

In the absence of the provisions of Article X, Section 2(a), the bill would conflict with the above language. The provisions of Article X, Section 2(a), however, grant the General Assembly the power to define the classes of property set forth in Article X, Section 1. The specific language is that:

The General Assembly may define the classes of property and values for property tax purposes of the classes of property set forth in Section 1 of this article and establish administrative procedures for property owners to qualify for a particular classification.

In considering the question presented, we are aided by settled rules of construction. The Constitution as a whole must be considered and harmonized.

All sections of the Constitution must be considered together and harmonized if possible.

Knight v. Hollings, 242 S.C. 1, 129 S.E.2d 746 (1963). For other cases, see 6 S.C.D., Constitutional Law, Key 15.

The effect of a particular constitutional provision should be determined in light of its relationship to the entire Constitution and not as a single isolated provision.

Johnson v. Piedmont Municipal Power Agency, 277 S.C. 345, 287 S.E.2d 476 (1982). Under this settled rule of construction, both constitutional provisions must be considered together and harmonized if possible.

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Additionally, the words should be given their ordinary meaning.

It is not Supreme Court's province to change clear intendment of constitutional provision by construing language used so as to give it different meaning from that which it clearly imports.

Gentry v. Taylor, 192 S.C. 145, 5 S.E.2d 857.

Here the language is that the "General Assembly may define the classes of property and values for property tax purposes of the classes of property set forth in Section 1 . . ."

The word "define" means:

To explain or state the exact meaning of words and phrases; to state explicitly; to limit; to determine essential qualities of; to determine the precise signification of; to settle; to establish or prescribe authoritatively; to make clear. . .

Black's Law Dictionary, Revised Fourth Edition. See also Vol. 11A, Words and Phrases, Define.

The word define given its ordinary meaning thus confers authority upon the General Assembly to set forth what lands qualify for taxation within the agricultural classification. In our view, this result is mandated by the above-quoted rules of construction otherwise, the provisions of Article X, Section 2(a) would be meaningless.

The question then arises whether Senate Bill S-450's purpose is to define agricultural lands. If so, its constitutionality would most probably be upheld.¹

¹A restatement of the language to more clearly express the bill's purpose to define the qualifying class would aid in resolving the issue should a judicial action be instituted.

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CONCLUSION:

If Senate Bill S-450 is found to be a definition of agricultural lands, its constitutionality would most probably be upheld.

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