

Library 293.

# The State of South Carolina



## Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE 803-734 3636

October 2, 1987

The Honorable Paul E. Short, Member  
South Carolina House of Representatives  
P. O. Box 547  
Chester, South Carolina 29706

Dear Representative Short:


You have requested the advice of this Office as to whether a referendum can be held to devolve upon the Chester County Council the authority to set school tax millage for Chester County. Currently, millage is set by the auditor pursuant to written instructions from the Chester County Board of Trustees which have been approved by a majority of the county legislative delegation. Act 1005, Acts and Joint Resolutions of South Carolina, 1970. Because your question is whether, under current authority, a referendum could change these provisions for school tax millage, the operation and effect of these millage provisions is not addressed herein.

Neither of the provisions for counties to hold referenda applies here to permit a binding referendum on the millage question. Provisions for the proposal of county ordinances by the petitions and the holding of referenda concerning those ordinances not adopted by county governing bodies would not be applicable here because those provisions do not extend to ordinances appropriating money or authorizing the levy of taxes. §§4-9-1210 and 4-9-1230 of the Code of Laws of South Carolina, 1976; Ops. Atty. Gen., June 6, 1979. The question of whether an advisory referendum could be held concerning this issue under §4-9-30 (16) need not be addressed here because an "advisory" referendum could not, alone, change legislative provisions. See South Carolina Department of Highways and Public Transportation v. Dickinson, 341 S.E.2d 134 (S.C. 1986); Sutherland Statutory Construction, Vol. 2A, §46.01 et seq.

The Honorable Paul E. Short  
October 2, 1987  
Page 2

Because of this conclusion that the provisons for referenda would not operate to change the current method of setting school tax millage in Chester County, the legislature would need to pass legislation authorizing such a referendum if it is desired. If you have any questions, please let me know.

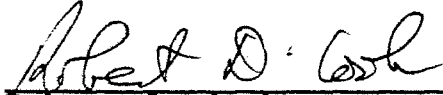
Yours very truly,



J. Emory Smith, Jr.  
Assistant Attorney General

JESjr/srcj

REVIEWED AND APPROVED:



---

Robert D. Cook  
Deputy Attorney General