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OPINION NO. ~~87-55~~ 87/61

June 19, 1987

SUBJECT: Taxation & Revenue - Tax Levy And Sinking
Fund For Bond Debt Payment.

SYLLABUS: Section 4-15-180 levies a tax to fund
bond debt of a county and no action is
necessary or required of a county council
for the tax levy.

TO: C. Gordon McBride, Esq.
Darlington County Attorney

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

QUESTION: Does the county council levy the tax for payment
of bond debt?

APPLICABLE LAW: Section 4-15-180 of the South Carolina
Code of Laws.

DISCUSSION:

Article X, Section 14 of the South Carolina Constitution
provides in part that the counties of the state:

" . . . shall have the power to incur bonded
indebtedness in such manner and upon such
terms and conditions as the General Assembly
shall prescribe by general law . . ."

The County Bond Act is codified in Chapter 15 of Title 4 of
the South Carolina Code of Laws and presumably the bonds are
to be issued pursuant to that authority. Section 4-15-150
provides in part that the full faith, credit and taxing
power of the county is pledged for repayment of the bond
debt. It further provides that:

" . . . there shall be levied annually by the
county auditor and collected by the county
treasurer . . . a tax . . . on all taxable
property . . . sufficient to pay the

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principal and interest of such bonds as they respectively mature and to create such sinking fund as may be necessary therefor."

This statute is the taxing authority. No action is required or necessary for the tax levy except that of entering the same upon the duplicate by the county auditor and the collection of the same by the county treasurer. Floyd v. Parker Water & Sewer Sub-District, 203 S.C. 276, 17 S.E.2d 223 states in part:

"[7] The Act is not an unconstitutional delegation of taxing power for another reason. The Legislature itself has levied the tax, and the sub-district has no discretion thereabout, as will be seen from Section 6 of the Act, which reads in part: 'Until the principal and interest of all bonds issued under this Act shall be fully paid, there shall be levied annually upon all taxable property in the sub-district a tax sufficient to pay such interest . . . and to provide a sinking fund . . . Said annual tax shall be levied and collected by the same officers and in the same manner as is now provided for the levy and collection of taxes for county purposes in Greenville County.'"

CONCLUSION:

Section 4-15-180 levies a tax to fund bond debt of a county and no action is necessary or required of a county council for the tax levy.

JLAJr/jws