

1982 WL 189135 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 14, 1982

*1 A. G. Solomons, Jr., Esquire
Hampton County Attorney
Post Office Box 969
Estill, South Carolina 29918

Dear Mr. Solomons:

In response to your request for an opinion from this Office regarding the authority of the Hampton County Council to provide for a county-wide uniform tax and maintain two separately operated school districts, [Section 4-9-70, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, provides in part as follows:

. . . In counties containing more than one school district, where all such districts are located wholly within the boundaries of the county, council may by ordinance establish county-wide school tax millage.

Another provision in [Section 4-9-70](#), however, states that in any county where the General Assembly retained the authority to establish or limit the millage levied by school districts or to levy a tax for educational purposes on January 1, 1974, that authority is to continue in the General Assembly until transferred by legislation to the school district or county governing body. It appears that in Hampton County the legislative delegation must approve the school districts' budgets before taxes can be levied [[§ 21 2975, 1962 Code of Laws of South Carolina](#)] but I doubt whether this power translates into the authority to 'establish or limit the millage' or to 'levy a tax for educational purposes.' Moreover, the legislative delegation's authority to approve the budgets is certainly constitutionally suspect since the decision in [Aiken County Board of Education v. Knotts, et al.](#), 274 S.C. 144, 262 S.E.2d 14 (1980).

I would further note that if the boards of trustees of the two Hampton County school districts are appointed [[see, § 59-19-20, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended], their authority to levy taxes is questionable since the decision in [Crow v. McAlpine, et al.](#), Opinion No. 21614 filed December 15, 1981.

With kind regards,

Karen LeCraft Henderson
Deputy Attorney General

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