

1982 WL 189217 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 24, 1982

**\*1 ATTENTION: John Stephen Hooks, Jr.**

Honorable Richard W. Riley  
Governor  
State of South Carolina  
Post Office Box 11450  
Columbia, South Carolina 29211

Dear Governor Riley:

In response to your request for advice regarding legislation which would provide for a referendum to be held in all South Carolina counties on the question of whether or not the local government should levy a local tax, my opinion is that such legislation would be constitutionally suspect irrespective of whether it is enacted by act or by joint resolution. The South Carolina Supreme Court may well say that while the authority to hold such a referendum may be provided for by legislation, the decision on whether or not to conduct the referendum is a local decision to be made at the local rather than the State level. See, e.g., [Van Fore v. Cooke](#), 255 S.E.2d 339 (1979); [Knight v. Salisbury](#), 206 S.E.2d 875 (1979). I would also note that local governments already have the express authority to conduct advisory referendums. See, § 4-9-30(16) and § 5-7-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended.

With kind regards,

Karen LeCraft Henderson  
Deputy Attorney General

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