

1981 S.C. Op. Atty. Gen. 38 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-22, 1981 WL 96548

Office of the Attorney General

State of South Carolina

Opinion No. 81-22

March 18, 1981

***1 SUBJECT: Taxation—Constitutionality Under Article X of an Act that Limits the Tax Revenue of a County and Municipality from Property Taxation and Substitutes a Sales Tax Therefor.**

An amendment to a Bill that prohibits property tax increases by municipalities and counties and substitutes a sales tax levy therefor does not offend Article X of the South Carolina Constitution.

TO: Honorable Ryan Shealy
Senate District 8, Seat 2

QUESTION:

Senate Bill S–2, in a section designated as 12–36–90, requires a roll back of property taxes levied and collected by a county and municipality. The roll back is in an amount that is not less than eighty-five percent of a sales tax that is authorized by the Act. The county or city may thereafter increase tax revenue from property taxation. An amendment is proposed that would prohibit the property tax increase, however, would grant authority to the county and city to levy an additional one-half percent sales tax. The question is whether this limitation offends Article X of the South Carolina Constitution.

APPLICABLE LAW:

Article X of the South Carolina Constitution.

DISCUSSION:

The Constitution is a limitation upon the powers of the General Assembly. [Smith v. Robertson](#), 210 S.C. 99, 41 S.E.2d 631; [Clarke v. S. C. Public Service Authority](#), 177 S.C. 427, 181 S.E. 481. The General Assembly has exclusive power of taxation except as limited by the Constitution. [Carroll v. York](#), 109 S.C. 1, 95 S.E. 121. It may delegate the power to tax to the political subdivisions of the State as authorized by [Article X, Section 6](#). Section 7(b) of the Article provides in part that:

‘Each political subdivision of the State as defined in Section 14 of this article and each school district of this State shall prepare and maintain annual budgets which provide for sufficient income to meet its estimated expenses for each year. * * *.’

The proposed amendment would limit the tax revenue of the municipality and county. Such could preclude adequate revenue to fund the budget needs as may be determined by the entity's governing body.

We, however, would not view the amendment to be in conflict with the provisions. The General Assembly would instead be limiting the right to tax to the municipality and county. We find no language in [Article X](#) that requires the General Assembly to delegate an unlimited right to tax. [Section 6](#) of the Article grants discretion to the General Assembly and such would not be offended by the proposed amendment.

CONCLUSION:

An amendment to a Bill that prohibits property tax increases by municipalities and counties and substitutes a sales tax levy therefor does not offend Article X of the South Carolina Constitution.

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