

1981 WL 158198 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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\*1 The Constitutional requirement that revenue bills shall originate in the House of Representatives only, applies to bills to levy taxes in the strict sense of the word, and not to bills for other purposes which may incidentally raise revenue.

Honorable Harris P. Smith

Senator

Pickens, Abbeville, Anderson and Oconee Counties

ISSUE:

Is Senate Bill No. 2, which is entitled a bill 'To Amend Title XII, Code of Laws of South Carolina, 1976, Relating to Taxation by Adding Chapter 36, so as to Authorize Counties and Municipalities to levy a Joint County-Municipal Sales Tax of One-Half Percent Upon a County-wide Referendum Vote in Favor of Such Tax, Mandate a Rollback of Ad Valorem Taxes Whenever Such Sales Tax is Levied and Permit Municipalities to Levy a Municipal Sales Tax Under Certain Conditions' a revenue raising measure within the meaning of [Article III, § 15 of the Constitution of the State of South Carolina](#)?

DISCUSSION:

[Article III, § 15](#) provides: 'Bills for raising revenue shall originate in the House of Representatives but may be altered, amended, or rejected by the Senate.'

The historical purpose of this provision stems from the English parliamentary system. There, it was felt that the taxing powers should lie with the popularly elected lower house rather than the House of Lords, which was appointed by the monarchy and passed down through the same family from generation to generation.

The traditional reasons for the provisions of the [Article III, § 15](#) restriction on revenue measures are no longer as important under our present form of state government because the House and Senate are equally responsible directly to the voters of the state. As a result of the historical changes in the election of the two houses of our state legislature, the Supreme Court of South Carolina, as in other jurisdictions, has taken a very restrictive view of what constitutes a revenue raising measure within the meaning of [Article III, § 15](#).

In [State v. Stanley](#), 131 S.C. 513, 127 S.E. 574, 1925, the Court stated:

The Constitution providing that revenue bills shall originate in the House of Representatives only applies to bills to levy taxes in the strict sense of the word, and not to bills for other purposes which may incidentally raise revenue.

This language regarding the restrictive use of the term 'revenue measure' was again adopted in the case of [State v. Lewis](#), 181 S.C. 10, 186 S.E. 625, 1936.

A review of Senate Bill No. 2 indicates that this Bill delegates authority to local government units to adopt a one-half percent sales tax by means of a public referendum. The net proceeds of the sales tax are declared to be city and county funds which are not part of the state general fund.

In [Mikell v. The Philadelphia School District](#), 359 Pa. 113, 58 A.2d 339, a bill originated in the state senate which imposed a personal property tax upon the residents of first class school districts for the purpose of raising revenue. The Supreme Court of Pennsylvania held that this act was not a revenue raising measure within the meaning of the Constitutional restriction. If the revenue raised applies only to local levels and no part of it goes into the state general fund, then it does not fall within the constitutional meaning of 'revenue measures'.

\*2 The Court further stated that:

'To qualify as a bill within the purview of the cited constitutional provision ([Art. III, § 14 of the Pennsylvania Constitution](#)), at least the revenue derived from the tax imposed should be coverable into the Treasury of the exacting sovereign for its own general government uses.'

Based upon the above, it is generally held that laws delegating authority to local government units to levy and collect taxes for local purposes are not revenue measures within the strict sense of the word and therefore these laws may originate in either branch of the state legislature. 4 A.L.R.2d 984.

A review of Senate Bill No. 2 indicates that it is not a revenue raising measure within [Article III, § 15 of the Constitution of the State of South Carolina](#), because it is merely a delegation of authority to local governments to levy and collect taxes for local purposes.

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