

1981 WL 158059 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 30, 1981

*1 The Honorable David S. Taylor
P. O. Box 142
Suite 613
Gressette Senate Office Bldg.
Columbia, South Carolina 29202

Dear Senator:

Your letter of November 12, 1981, has been referred to me for reply. You have presented three questions for our consideration. Each question will be stated below and a brief discussion will follow.

1. What legal steps are necessary to change district lines for School Districts 55 and 56 in Laurens County?

[Section 59-17-20 of the Code of Laws of South Carolina](#), 1976, as amended, provides for the legal steps necessary to alter or divide a school district. I have enclosed this section for your review. I believe it is self-explanatory. While it is unclear from your letter whether your intention is to create a new school district or merely change the lines between the two existing districts, the implication is that you intend the latter. If this is the case, either of the four alternatives presented in [Section 59-17-20](#) may be utilized. However, if the incorporation of a new school district is involved, the implementation of [§ 59-17-20\(1\)](#) or 2(a) give rise to questions of doubtful constitutionality. Enclosed is a previous opinion letter written by Paul S. League, Assistant Attorney General, to Representative Larry A. Martin on June 8, 1981, dealing with this issue.

If the changing of the district lines results in a consolidation of the districts, please be advised that there is an additional method by which school districts can be consolidated. Under the authority of [§ 59-17-50, Code of Laws of South Carolina](#), 1976, as amended, the county board of education may consolidate school districts, in whole or in part, whenever, in its judgment, such consolidation will promote the best interest of the cause of education in the county. This section deletes the necessity of filing a petition, holding an election or obtaining the consent of the legislative delegation referred to in [Section 59-17-20](#).

2. Can property of one school district be moved to another?

The board of trustees of each school district is endowed under the authority of [Section 59-19-90, South Carolina Code of Laws](#), 1976, as amended, with the care, management and control of the school property of the district. Therefore, before any action can be taken regarding the movement of property from one district to another the board of trustees of the district owning the property must approve the action.

Under the authority of [§ 59-19-250, South Carolina Code of Laws](#), 1976, as amended, the school trustees of the school districts may sell or lease school property, real or personal, in their school district whenever they deem it expedient to do so. Under the authority of [§ 59-17-90, South Carolina Code of Laws](#), 1976, as amended, two or more districts may agree to share equipment. It is unclear from your letter whether the move you contemplate would be a sale, lease, rent or exchange situation. In any case, it would be advisable to contact the attorney for the school district to determine the extent to which the board of trustees would be willing to go in moving school district property. Please be further advised that under the authority of [§ 59-17-70, South Carolina Code of Laws](#), 1976, as amended, once the lines are changed all property, real and personal, in the consolidated district shall be the property of that district and shall be controlled by the board of trustees of the consolidated district. While the language

used in this section refers to a consolidated district, it is inferable that the intent of the legislature was for property in districts where lines are altered to belong to the newly established district.

*2 3. If lines are changed, how would bonds already issued be retired and who would be liable for any new bonds issued?

§ 59-17-30, [South Carolina Code](#) of Laws, 1976, as amended, describes the effect of alteration or division of school districts on bonds. It provides for retirement of existing bonds by special taxation or by donation. It further provides that the entire territory comprising the newly formed district shall bear its just proportion of any tax that may be levied to liquidate such bonds or support the public schools therein. As the new district will be an entity with liabilities and assets of its own, it, the newly formed district, will be responsible for any new bonds issued after the alteration.

I hope this information will assist you. If I can be of further assistance, please contact me.

Sincerely,

B. J. Willoughby
Assistant Attorney General

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