

1979 S.C. Op. Atty. Gen. 49 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-32, 1979 WL 29038

Office of the Attorney General

State of South Carolina

Opinion No. 79-32

February 22, 1979

***1 SUBJECT: Property Tax—Annual adjustment of tax levy to retire bonds.**

The tax levied to retire and pay interest on bonds issued pursuant to Act 181, Acts of 1971, should annually be in an amount sufficient to pay such obligations for the year. Adjustments in the preceding year's levy are necessary when such levy would produce more or less revenue than needed.

TO: Honorable John Thomas Wood
Member
House of Representatives
District 17, Greenville County

QUESTION:

Should the tax levied to retire bonds issued pursuant to Act 181, Acts of 1971, be adjusted annually?

APPLICABLE LAW:

Act 181, Acts of 1971

DISCUSSION:

The Act grants continuous authority for the issuance of bonds to the Board of Trustees of the School District of Greenville County. Single issues cannot however exceed three million dollars (\$3,000,000) in any one calendar year. A tax sufficient to retire the maturing bonds by payment of principal and interest is required to be levied. The specific language is found in Section 11 of the Act that provides in part as follows:

'For the payment of the principal of and interest on all bonds issued pursuant to this act, as they respectively mature, and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the school district shall be irrevocably pledged and there shall be levied annually by the Auditors of Greenville, Spartanburg and Laurens Counties and collected by the Treasurers of Greenville, Spartanburg and Laurens Counties in the same manner as county taxes are levied and collected a tax without limit on all taxable property in the school district (which lies in their respective counties) sufficient to pay the principal and interest of such bonds as they respectively mature and to create such sinking fund as may be necessary therefor. * * *.' (Emphasis added)

The language is clear and must be given its ordinary meaning.

'In construing a statute, the language should be given its ordinary and popular significance without resort to subtle and forced construction for the purpose of limiting its operation; the court can neither legislate nor construe a statute which is clear.' [Investors Premium Corp. v. South Carolina Tax Commission](#), 260 S.C. 13, 193 S.E.2d 642. (For other cases see [17 S.C.D. Statutes](#), Key 188, et seq.)

The tax under the Act is annual and should be sufficient to meet the principal and interest payments due on the bonds. The 'sinking fund' is defined as:

'A 'sinking fund' is a fund arising from particular taxes, imports or duties, which is appropriated toward payment of the interest due on a public loan, and for payment of the principal.' [Talbot v. City of Lyons](#), 171 Neb. 186, 105 N.W.2d 918. See also [39 Words and Phrases](#), Sinking Fund, and [Black's Law Dictionary](#), 4th Edition.

It is contemplated by the Act that the Tax be levied annually in an amount sufficient for the payment of the principal on maturing bonds as well as all interest that may be payable. The levy should be adjusted from the preceding year's levy when such is necessary to produce the required revenue.

CONCLUSION:

*2 A tax levied to retire and pay interest on bonds issued pursuant to Act 181, Acts of 1971, should annually be in an amount sufficient to pay such obligations for the year. Adjustments in the preceding year's levy are necessary when such levy would produce more or less revenue than needed.

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