

1980 WL 121251 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 29, 1980

*1 The Honorable William E. Knotts, Jr.
District No. 8
Blatt Building
Columbia, South Carolina 29201

Dear Senator Knotts:

You have requested an opinion as to whether or not a bill bearing House Number 3869 would comply with the requirements of In Re: Aiken County Board of Education v. Knotts, Opinion No. 21112, filed January 9, 1980.

House bill 3869 authorizes the Aiken County Board of Education to levy for the 1980-81 budget a tax not to exceed 96.4 mills over the 1979-80 budget. This bill would appear to comply with the requirements of the Supreme Court decision. The opinion itself states in part that

[i]t is to be noted that both the language of the statute and its recent legislative history demonstrate a legislative intent that the Board not have the power to increase its tax levy without the concurrence of some reviewing authority. Our holding is not to be interpreted as vesting the Board with the power to increase tax levies, since those portions of the statute which we have held to be constitutional do not grant the Board such authority. It is clear that the Legislature in delegating its power to tax, as it has done in this instance to a qualified extent, may impose by law a maximum millage ceiling. (Emphasis added.) (Cite omitted.)

Likewise, in [Gunter v. Blanton](#), 259 S.C. 436, 441, the court held

[n]o contention is here made that the Legislature cannot impose limitations on the power delegated, when such limitations are imposed in the exercise of its legislative power. This, . . . the Legislature may delegate the power to tax, but also impose by law a maximum millage ceiling.

Therefore, it would appear that this bill would comply with the decisions by our Supreme Court in this matter.

Additionally, you have inquired as to when an election, as provided by Section Two of this bill, could occur. There is no time set out by this bill as to when the election should take place. Therefore, it would appear that the election could be held at any time following proper notice to the electorate of the election.

Yours very truly,

Treva G. Ashworth
Senior Assistant Attorney General

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