

1980 WL 120744 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 25, 1980

\*1 Dr. Ronald L. Hubright  
Superintendent  
Allendale County Schools  
Post Office Box 458  
Allendale, South Carolina 29810

Dear Dr. Hubright:

You have asked whether the procedure for levying taxes for the Allendale County Board of Education has been changed under home rule so as to require that the Board of Education submit its budget to the county council or some other political entity rather than to the legislative delegation. It is the opinion of this Office that the procedure for levying the school tax has not been changed by the Home Rule Act.

The General Assembly has not been mandated by the Constitution to confer upon the counties the power to control the public school system. [Moye v. Caughman](#), 265 S.C. 140, 217 S.E.2d 36 (1975). Furthermore the Home Rule Act provides, in part, The provisions of this chapter shall not be construed to devolve any additional powers upon county councils with regard to public school education, and all school districts, boards of trustees and county board of education shall continue to perform their statutory functions in matters related thereto as prescribed in the general law of the State; provided, however, that except as otherwise provided for in this section the county council shall determine by ordinance the method of establishing the school tax millage except in those cases where boards of trustees of the districts or the county board of education established such millage at the time one of the alternate forms of government provided for in this chapter becomes effective. [§ 4-9-70, Code of Laws of South Carolina](#), 1976.

County councils are specifically not given the power to provide for a school tax in those counties where the county board of education established the school tax millage on the effective date of the home rule form of government in that county.

In Allendale County the County Board of Education has established the school tax which, upon the approval of the legislative delegation, is then levied by the auditor. Act No. 112, S.C. ACTS AND JOINT RESOLUTIONS, 1965. This was the procedure followed on the effective date of home rule in Allendale County. Therefore, this procedure is not changed by the Home Rule Act. Sincerely yours,

David C. EcKstrom  
Assistant Attorney General

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