

1977 WL 46015 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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**SYLLABUS: Any tax levied by the Berea Public Service District must be equal and uniform upon all taxable property within the District.**

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### QUESTION

Should the boundaries of the Berea Public Service District be extended pursuant to authority of Act 926, Acts of 1974 and the newly-acquired area be furnished only fire protection and not the other services provided by the District; may the property in the newly-acquired area be taxed differently (lower millage rate) than the remaining property of the District?

### APPLICABLE LAW

Act 926, Acts of 1974, Act 674, Acts of 1973, Acts 680 and 686, Acts of 1969, Act 621, Acts of 1965, Act 848, Acts of 1954, Section 14-3703(5), Section 14-3705, Article 10, Section 1 of the Constitution, and Article 8, Section 7 of the Constitution, as amended.

### DISCUSSION

It is significant to note that the Acts relating to the District and to the authority of the governing body of the County to extend the boundaries all provide, where taxation is applicable, that:

“\* \* \* the full faith, credit and taxing power of the special purpose district shall be irrevocably pledged, and there shall be levied annually by the auditor, and collected by the treasurer of the county \* \* \*, a tax without limit on all taxable property in the special purpose district \* \* \*.”

The term “all taxable property” is that property not exempt by law. State v. City Council of Charleston, 4 Stat. 217.

The provisions of Article 10, Section 1, require uniformity and equality in taxation which is however limited to the political entity imposing the tax.

“\* \* \* uniformity of taxation must be coextensive with the territory to which the tax applies.” Smith v. Robertson, 210 S. C. 99, 41 S. E. 2d 631. See also Ashmore v. Greater Greenville Sewer District, 211 S. C. 77, 44 S. E. 2d 88, 17 S.C.D., Taxation, Key 40, et seq.

The tax therefore must be equal and uniform with the District. Article 8, Section 7, provides authority to tax an area dependent upon services rendered. Section 14-3703(5) is legislative authority to so tax, however, both refer to the county and not the special service district. Additionally, Section 14-3705 specifically limits the counties' authority over special service districts.

### CONCLUSION

It is the opinion of this office that any tax levied by the Berea Public Service District must be equal and uniform upon all taxable property within the District.

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