

1977 WL 37028 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 12, 1977

\*1 Jack F. McIntosh, Esquire  
Post Office Box 197  
Anderson, South Carolina 29622

Dear Mr. McIntosh:

You have requested an opinion from this Office as to whether or not the Anderson County Council is authorized to determine the tax millage to be levied for the operation of the Anderson County Board of Education. In my opinion, it is not so authorized.

Section 4–9–70, CODE OF LAWS OF SOUTH CAROLINA, 1976, provides in part as follows:

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 boards of education shall continue to perform their statutory function in matters related thereto as prescribed in the general law of the State; . . . Provided, further, that in any county where the General Assembly retained the authority to establish or limit the millage levied by school districts or levy a tax for educational purposes, on January 1, 1974, such authority shall continue in the General Assembly until such time as such authority may be transferred to the school district or the county governing body by act of the General Assembly. . . .

On January 1, 1974, the General Assembly retained the authority to levy a tax for educational purposes in Anderson County. See, 58 STAT. 954, § 13 at 970 (1973) ('[t]here is hereby levied on all taxable property of Anderson County a tax of one and one-half mills, the proceeds of which shall be used for school purposes for the fiscal year 1973–1974 by the county board of education; . . .'). Therefore, until and unless the General Assembly transfers to the Anderson County Council by legislation its authority to levy a tax for educational purposes, that authority remains in the General Assembly. See, e.g., 59 STAT. 2368 (1976).

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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