

1977 WL 37438 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

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QUESTION

With regard to Section 3, paragraph (3) of the Educational Finance Act, does the index determined in February 1978 have to be used in allocations for fiscal year 1979? When will the Department of Education receive the index value in light of the provision for a district hearing?

STATUTE

South Carolina Educational Finance Act of 1977, Act 163 of the 1977 Acts and Joint Resolutions.

DISCUSSION

The effective date of the South Carolina Educational Finance Act is stated in Section 9 to be July 2, 1978. Numerous portions of the Act state that the Act is to be fully implemented within five years after its effective date. See Section 2, paragraph (4); Section 4, paragraph (1)(b) and Section 4, paragraph (3). The latter section states an intent that implementation from present funding be achieved in substantially equal annual intervals over the five year period. It is therefore clear that the Act contemplates partial funding during the first fiscal year, i. e., the State fiscal year beginning July 1, 1978 and ending June 30, 1979. Section 4, paragraph (1)(a) of the Act provides that the State's portion of the cost shall be disbursed to the school districts monthly with year-end adjustments. The first distribution under the new school finance bill will therefore be made during the month of July 1978.

The amount of State funds that each school district will receive is directly related to the amount of funding to be raised locally. As specified in Section 4, paragraph (1)(f) of the Act, the amount to be provided by the State is the difference between the total district funding and the amount to be provided locally. Therefore, no State distribution can be made until the proportion to be raised locally by a district is determined.

The determination of each district's local effort is based on the ability of the district to raise revenue. As stated in Section 2, paragraph (6) of the Act, the 'fair share' to be paid by each district 'is to be in direct proportion to its relative taxpaying ability'. This taxpaying ability is determined in Section 3, paragraph (3) through an 'index of taxpaying ability' which is a comparison or ratio of the assessed value of property in the district to the assessed value of property in all school districts. The ratio is to be expressed in terms of each district's percentage of the total state-wide ability to pay property taxes. This section of the Act goes on to state:

'The index shall be determined annually on or before February first by the Tax Commission * * *. Any school district shall be entitled to a hearing before the Tax Commission to review its designated index of taxpaying ability within thirty days of filing a request for such hearing.'

The provisions of the School Finance Act are in pari materia and must be construed together. See [First Presbyterian Church of York v. York Depository](#), 203 S. C. 410, 27 S. E. 2d 573, and other cases cited at 17 West's South Carolina Digest, Statutes, Section 223.2(1). Because the Act is effective for the fiscal year July 1, 1978 through June 30, 1979, the first 'index of taxpaying ability' is to be supplied by the Tax Commission on or before February first 1978 for use in making distributions to the districts during the first fiscal year for which the Act is effective.

*2 The Act makes provision for a hearing before the Tax Commission for any school district which desires a review by the Commission of its designated index. In light of this provision for review, you have asked when the index is to be supplied to the Department of Education.

Obviously a need exists for current uninterrupted funding of public schools. It is doubtful that the General Assembly intended an interruption in funding pending the outcome of a review of a district's assigned index. The index determination by the Commission on or before February first is therefore the proper index until a contrary determination is made. Since funding is made on a monthly basis, adjustments can be made during the fiscal year to reflect any change in a district's index.

CONCLUSION

The index determined by the Tax Commission on or before February first 1978 is to be used in allocating the required State effort for the fiscal year ending June 30, 1979. The Department of Education will receive the index on or before February first of each year and this index is to be used until changed.

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