

1978 WL 34712 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 17, 1978

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

Dear Dr. Hubright:

You have requested an opinion from this Office as to the powers of the Allendale County Board of Education with respect to borrowing for capital improvements and construction. Your letter of October 26, 1977, correctly outlined the applicable procedure. There are both constitutional and legislative provisions pertinent to bonded indebtedness as explained below.

New Article X of the South Carolina Constitution became effective November 30, 1977. [Hyden v. Governor Edwards, et al.](#), 269 S.C. 138, 236 S.E.2d 561 (1977). Though new Article X supercedes old Article X, certain provisions of old Article X will continue to be of importance for the immediate future with respect to bonded indebtedness.

Under old [Article X, Section 5](#), the bonded debt limitation of the Allendale County School District was eight per cent (8%) of the assessed value of the taxable property in the district. New [Article X, Section 15\(6\)](#), provides that any school district may incur indebtedness to the limit prescribed under old [Article X](#) during the period beginning December 1, 1977, to December 1, 1982, 'upon such terms and conditions as the General Assembly may have heretofore or may hereafter prescribe. . .'. Thus, under Act No. 125, Acts and Joint Resolutions, 1977, p. 244, an Act implementing [Article X](#), and [Article X](#), the School Board Act, [Section 59-71-10, et seq., Code of Laws of South Carolina](#), 1976, is applicable. The School Board Act provides that a favorable election result is a condition precedent to the issuance of bonds and goes on to detail the manner in which the election is to be carried out.

There still remains the question of the eight per cent (8%) limitation. Under new [Article X, Section 15\(5\), of the South Carolina Constitution](#), that limit may be exceeded if approved in the referendum by a majority of the school district electors voting therein. An additional requirement, in any event, under previous Legislation is the participation of the legislative delegation as required by Act No. 112, Acts and Joint Resolutions, 1965, p. 144. In particular, the delegation authorizes any tax found necessary and the amount of money required.

I hope this satisfactorily answers any questions you may have had.

Sincerely,

Richard B. Kale, Jr.
Assistant Attorney General

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