

1978 WL 34742 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1978

*1 Mr. Russell B. Shetterly
South Carolina Association of Counties
Suite 808 SCN Center
1227 Main Street
Columbia, South Carolina 29201

Dear Mr. Shetterly:

You have requested an opinion from this office as to whether or not a county can levy a tax in the entire unincorporated area of a county to supply a service when part of the unincorporated area which the county desires to tax is furnished a similar service already by a municipality. In my opinion, a county is so authorized.

[Section 4-9-30\(5\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, empowers a county to levy a tax in order to provide a service within the entire unincorporated area of that county. While the concurrence of the municipal governing body is necessary before the county can finance a service within that municipality if the service is already being provided by the municipality or if such service has been budgeted or funds applied for by the municipality, such concurrence is not required if the service is being provided by the municipality outside its corporate limits. The absence of such a requirement where the municipality provides a service to non-residents seems to indicate that the General Assembly did not intend to vest the municipality with any right to continue to provide such a service if the county decides to provide it. Nevertheless, cooperation between the municipality and the county is essential if the county decides to provide a service (and levy a tax therefor) to individuals who live outside the municipality but who are being served by that municipality in order to avoid doubly taxing or otherwise charging those individuals for that service. In addition, if the county chooses to proceed under [Sections 4-19-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, relating to fire protection services, [Section 4-19-10\(b\)](#) appears to require an agreement between the county and a political subdivision which already furnishes fire protection to an area within the county for the joint exercise of fire protection powers and the sharing of the costs thereof.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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