

1975 S.C. Op. Atty. Gen. 132 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4055, 1975 WL 22352

Office of the Attorney General

State of South Carolina

Opinion No. 4055

July 24, 1975

*1 Act No. R333 of 1975, which authorizes the City of Beaufort to borrow five hundred thousand dollars for general improvements, is a law for a specific municipality and, as such, is violative of Article VIII, Section 10 of the South Carolina Constitution. If the City of Beaufort borrows the money as authorized by that Act, it is liable for the debt notwithstanding the invalidity of the Act.

TO: Harold Trask

Special Assistant to the Governor

QUESTION PRESENTED

Whether or not Act No. R333 of 1975, which authorizes the City of Beaufort to borrow five hundred thousand (\$500,000.00) dollars for general improvements, violates Article VIII, Section 10 of the South Carolina Constitution and, if so, whether or not the City is liable for the debt incurred if it borrows pursuant to the Act.

STATUTES, CASES, ETC. INVOLVED

Act No. R333 of 1975.

S.C. CONST. art. VIII, § 10.

[Luther v. Wheeler](#), 73 S.C. 83, 52 S.E. 874 (1905).

[Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1974)

[Thorne v. Seabrook](#) (Opinion No. 20030, filed June 14, 1975) (concurring opinion of Moss, C.J. and Littlejohn, A.J.).

[Moye v. Caughman](#) (Opinion No. 20064, filed July 16, 1975)

DISCUSSION OF ISSUES

Act No. R333 of 1975 authorizes the City of Beaufort to borrow five hundred thousand dollars for general improvements. Article VIII, Section 10 of the South Carolina Constitution, which was ratified on March 7, 1973 [58 STAT. Act No. 63 at 67 (1973)], provides:

No laws for a specific municipality shall be enacted, . . .

Act No. R333 of 1975 is a law for a specific municipality and, in our opinion, violates the above-quoted provision of Article VIII, Section 10 of the State Constitution. Cf., Knight v. Salisbury, supra; Thorne v. Seabrook, supra; Moye v. Caughman, supra.

If the City of Beaufort borrows money pursuant to the Act, and the Act is subsequently declared unconstitutional by a court of law, the City nevertheless has a legal obligation to repay the sum borrowed if it is borrowed and used for the benefit of the City for municipal purposes. Luther v. Wheeler, supra.

CONCLUSION

In the opinion of this office, Act No. R333 of 1975, which authorizes the City of Beaufort to borrow five hundred thousand dollars for general improvements, is a law for a specific municipality and, as such, is violative of Article VIII, Section 10 of the South Carolina Constitution. If the City of Beaufort borrows the money as authorized by that Act, it is liable for the debt notwithstanding the invalidity of the Act.

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