

1975 S.C. Op. Atty. Gen. 170 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4094, 1975 WL 22390

Office of the Attorney General

State of South Carolina

Opinion No. 4094

August 22, 1975

***1 The Allendale County Supply Act provides the County Board of Directors with authority to levy taxes and appropriate funds to be used for the purposes of reassessment as directed by Act No. 208 of the General Assembly of 1975.**

Attorney at Law

Allendale, S. C.

Act No. 208 of the 1975 General Assembly provides that each county of the State shall initiate an equalization program during the year 1975 and provides specifically what shall be done and how property shall be assessed for taxation by the county. It provides that a full-time assessor shall be employed. The Allendale County Supply Act for 1975 fails to specifically appropriate funds to implement the Act. Section 8, however, grants the Board of Directors of the County with authority to appropriate additional funds for any purposes not specifically provided for in the Act.

‘The Board of Directors is hereby granted full power and authority to appropriate such additional sums as in its discretion may be deemed necessary for any purpose not herein provided, or may reduce any appropriation when circumstances change so that the board, in its discretion, may find it advisable to do so. Any change of more than ten percent of an item shall have the approval of the Allendale County Legislative Delegation. * * *.’

Section 1 of the Act directed the Auditor to levy a tax that would provide for the appropriations made and provided for in the Act.

‘The Auditor of Allendale County is hereby directed to levy a tax upon all the taxable property of Allendale County for the fiscal year 1975–1976, in a sufficient number of mills to provide for the payment of the items and expenditures hereinafter set forth.’

Inasmuch as the General Assembly has passed legislation to require the reassessment of property by all counties, it may be reasonably concluded that the reassessment should not be defeated because funds were not specifically appropriated to accomplish the reassessment. The delegation of authority to the Board to make additional appropriations not specifically provided for in the County Supply Bill is ample in our opinion to authorize the appropriation of funds to finance the reassessment program, which is without doubt a public purpose. It is a general rule of law that statutes adopted at the same session should be construed together and harmonized if possible. *State ex rel. South Carolina Tax Commission v. Brown*, 154 S. C. 55, 151 S. E. 218; *Lewis v. Gaddy*, 254 S. C. 66, 173 S. E. 2d 376, and other cases cited in 17 South Carolina Digest, Statutes, Section 223.

In addition to the above we have considered the previous rulings of the Court stating that a statute will, if possible, be construed so as to render it valid and that the power to levy taxes may be delegated by the General Assembly. See Article 10, Section 5, South Carolina Constitution; *Gaud v. Walker*, 214 S. C. 451, 53 S. E. 2d 316; *Moseley v. Welch*, 209 S. C. 19, 39 S. E. 2d 133. We have further considered the provisions of Article 10, Section 9, and Article 10, Section 3 of the South Carolina Constitution. We believe, however, that the Act requiring reassessment and the County Supply Bill together provide ample legal authority to support any tax imposed and appropriated for reassessment against any attack made under these sections.

*2 The case of *Gunter v. Blanton*, 259 S. C. 436, 192 S. E. 2d 473, held, however, that the legislative delegation has no authority to participate in arriving at the amount of a tax levy, therefore, the portion of Section 8 of the Supply Act requiring their approval may be held unconstitutional by the Courts if challenged in a Court of law. Only a Court of competent jurisdiction, however, may authoritatively declare an Act of the General Assembly unconstitutional and until such a declaration the Act is presumed to be constitutional. See 16 Am. Jur. 2d., *Constitutional Law*, Section 104, page 287.

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