

1974 S.C. Op. Atty. Gen. 39 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3692, 1974 WL 21211

Office of the Attorney General

State of South Carolina

Opinion No. 3692

January 15, 1974

***1 The limitation of the bonded indebtedness found in Section 14 of Senate Bill 442, if ratified as written, is for each political subdivision.**

Senator

Spartanburg County

Reference is made to your letter of January 9, 1974 to Mr. McLeod and to the request for the opinion of this office concerning Section 14 of Senate Bill S. 442. The section authorizes political subdivisions in the State to incur bonded indebtedness and your inquiry is whether the section, if ratified as currently written, limits the amount of bonded indebtedness without referendum to the amount of taxes and licenses collected by the individual political subdivision and whether this implies that each individual political subdivision has a debt limit instead of an overall county debt limit that would be comprised of all the revenues collected for the political subdivision other than municipalities within the county.

It is the opinion of this office that the limitation is to each political subdivision and, further, that each political subdivision in the county has, in the absence of a referendum, an individual bonded debt limit.

The Committee that was created to study the South Carolina Constitution of 1895 and recommend changes therein made the following comments on this proposed amendment:

'Bonded indebtedness of counties, municipalities, school districts, special districts. The Committee strongly believes that local governments should be limited in the amount of debt which may be incurred without a vote. The Committee further feels that basing this amount on the taxes and licenses collected locally in the three preceding years is a better measure than the current procedure.

'Indebtedness in excess of this constitutional limit can be incurred upon a vote of the people. Committee members feel that this is ample protection for the taxpayer.

'The Committee feels that revenue bonds as now recognized by South Carolina law should be excluded from the debt limitations just as they are now.' *Page 84 of the Committee's Report.*

These comments may be considered by the Court, if needed, to determine the intent and purpose of the constitutional amendment.

'Conditions under which constitutional amendment was passed may be considered, where language of amendment fails to disclose legislative intent.' *Covington v. McInnis*, 144 S. C. 391, 142 S. C. 650.

In further support of the opinion it should be noted that the Bill involved contains specific language that refers to the political subdivision that incurs the indebtedness and the provisions of Article 10, Section 5 of the Constitution of 1895 relating to a limitation based upon the indebtedness of overlapping political subdivisions is deleted from this Bill.

Joe L. Allen, Jr.

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