

1974 WL 28051 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 19, 1974

***1 In Re: Proposed Constitutional Amendment to be Designated Article X, Section 14**

The Honorable G. P. Callison
County Attorney
Greenwood County

Messrs. Callison & Dorn
Attorneys at Law
505-9 Textile Building
Greenwood, South Carolina 29646

Dear G. P.:

Thank you for your letter of March 8, 1974, enclosing a copy of your letter to the Members of the Legislative Delegation of Greenwood County dated March 7, 1974.

Your comments are timely and pertinent. The draft of the constitutional amendment, of course, limits the bonded indebtedness of political subdivisions to income received from taxes and licenses collected locally in the preceding years for the political subdivision incurring the indebtedness. As you note, this would not include income received by the county from such sources as county investments which, in the case of Greenwood County, is considerable by virtue of its receipt of monies from the Electric Capital Fund. This limitation on indebtedness may be incurred without a vote of the people; whereas, indebtedness in excess of this amount may be incurred subject to a referendum. The Drafting Committee, on page 83 of the Committee Report, stated: 'The Committee strongly believes that local governments should be limited in the amount of debt which may be incurred without a vote;' and expressed the view that basing this amount on the taxes and licenses collected locally in the three preceding years is a better measure than the current procedure. With respect to the additional indebtedness that may be incurred upon a vote of the people, the Committee states that its members 'feel that this is ample protection for the taxpayer.'

Sources of income from investments is probably somewhat unique to Greenwood County, but your point is well taken that the proposed procedure could limit its bonded debt limitation without a vote to a considerable extent. Insofar as present indebtedness is concerned, I am unable to state how this will ultimately be treated and it is entirely possible that some constitutional provision may be necessary to clarify this. Unless a change is made, I would assume that Greenwood County, now having a bonded debt in excess of three preceding years receipts from taxes and licenses, would be limited to any further debt obligation, except by vote of the people.

In my view, it is a matter of judgment which you have properly directed to the only persons who are in a position to modify proposed constitutional restrictions on bonded debt, *i.e.*, the Legislature. The only other avenue which I think may be explored is to set the reaction of Huger Sinkler, who is a member of the Drafting Committee, and who is probably more versed on this problem than anyone else. His views would, I think, carry a great deal of weight.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

ATTACHMENT

P. S. Consideration may be given to approaching the problem by permitting income from investment sources to be considered as a measure of bonded debt limitation if such income is available for general county purposes. It is my understanding that the Committee sought to remove from consideration income from State sources, such as 'kickback' funds, some of which is limited in the purposes for which it can be spent by the counties.

***2** D.R.M.

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