

1974 S.C. Op. Atty. Gen. 350 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3911, 1974 WL 21407

Office of the Attorney General

State of South Carolina

Opinion No. 3911

December 17, 1974

***1 Re: Town of Walhalla Annual Tax Levy**

Alexander S. Macaulay, Esquire
Attorney at Law
P. O. Drawer 428
Walhalla, South Carolina 29691

Dear Mr. Macaulay:

You have requested an opinion as to the means by which the City of Walhalla can legally raise its annual tax levy above the present eighty-five mills limit.

As you mentioned in your letter, Act No. 156 of 1969 empowered the town council of Walhalla to levy an annual tax not exceeding eight and one-half percent of the assessed value of all taxable property situate within the corporate limits. Act No. 156 was enacted pursuant to former Article VIII, Section 3 of the State Constitution. That provision was deleted when Article VIII was revised in 1973. The drafters of new Article VIII made the following comment concerning former Article VIII, Section 3: The power of municipalities to levy taxes should be left to the General Assembly . . . The Committee, consequently, recommends the deletion of this section. Final Report of the Committee to Make a Study of the South Carolina Constitution of 1895, at 97 (1969).

Thus, it is clear that the drafters envisioned additional legislation by the General Assembly in order to carry forward the authority of municipalities to levy taxes. Indeed, a bill was introduced during the 1974 term which, if enacted, would have provided all municipalities with the authority to levy taxes by ordinance, regulation or resolution. See, Bill Bearing Calendar No. 8.789, § 47–32. It is anticipated that a bill similar to 8.789 will pass during the next session and that the City of Walhalla will be able to increase its present millage by ordinance. In the meantime, however, our opinion is that the millage could not lawfully be raised by the municipality acting pursuant to any inherent police power.

In addition, we construe Section 1 of new Article VIII, which provides:

The powers possessed by all counties, cities, towns, and other political subdivisions at the effective date of this Constitution shall continue until changed in a manner provided by law . . . ,

to mean that all entitles either enumerated or alluded to in Section 1 continue to have the powers they had as of March 7, 1973, but cannot validly exercise any powers subsequently granted them, unless granted by means of a general law. See, [Neal v. Shealy](#), 261 S.C. 266, 199 S.E.2d 542 (1973); Final Report of the Committee to Make a Study of the South Carolina Constitution of 1895, Comment A at 85, Comment J at 86 and Comment K at 87; S.C. CONST. art. VIII, §§ 9, 10. A statute granting only the City of Walhalla the authority to increase its tax millage would, moreover, most probably be unconstitutional by virtue of the opinion rendered in [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1974). Our conclusion is, therefore, that the City of Walhalla cannot lawfully raise its annual tax levy above the present eighty-five mills limit until the General Assembly enacts a law, general in form, empowering municipalities to levy taxes by ordinance, resolution or regulation.

With kindest regards,

*2 Karen LeCraft Henderson
Assistant Attorney General

1974 S.C. Op. Atty. Gen. 350 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3911, 1974 WL 21407

End of Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.