

1973 S.C. Op. Atty. Gen. 128 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3516, 1973 WL 20976

Office of the Attorney General

State of South Carolina

Opinion No. 3516

April 25, 1973

***1 In Dorchester County, the County Council possesses the power to make appropriations and levy taxes without legislative approval.**

County Attorney

You have requested that we advise you as to whether or not it is necessary for the Dorchester County Council to obtain the approval of the General Assembly of the annual budget which the Council adopts each fiscal year. Your own opinion is that the Council need not obtain the legislature's approval of its appropriations and tax levies. We concur.

Act No. 236 of 1969, which creates the County Council of Dorchester County [*see* 56 STAT. Act No. 236 at 254 (1969)], in prescribing its powers and duties, reads in part:

The council is hereby empowered to legislate . . . as herein provided, and . . . shall have the following powers:

xxx

5. To make appropriations and levy taxes for corporate and educational purposes, to build and repair public roads, buildings and bridges, to maintain and support prisoners, pay jurors, county officers for litigation, quarantine and court expenses and for ordinary county purposes, to support paupers, and to pay past indebtedness. *Ibid.* Section 7 at 256.

Nowhere is there a provision which requires the submission of its plans for the appropriation of funds and the levying of taxes to the General Assembly for its approval or for its enactment.

Although we realize that the General Assembly, since the adoption of Act No. 236 and the creation of the Dorchester County Council, has by legislative enactment provided for the levy of taxes and the expenditure of funds in Dorchester County [*see e.g.*, 57 STAT. Act No. 1805 at 3591 (1972)], the County Council, nonetheless, possesses the power and has the duty to exercise that responsibility alone. The approval by the General Assembly of the budget which the Council adopts, to state the matter differently and more simply, is not required. Dorchester County enjoys 'home rule' [*see* Brief of Defendants, *Stevenson v. West*, footnote 6 at 22, Civil Action No. 72-45, D.S.C. (1972)], and, as the statute clearly permits, the Council alone shall make appropriations and levy taxes in Dorchester County for the purposes set forth in Section 7(5) of Act No. 236 of 1969.

C. Tolbert Goolsby, Jr.
Deputy Attorney General

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