

1973 WL 26740 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 14, 1973

***1 Re: No. 259—Schools**

Dr. W. B. Royster
Superintendent
School District No. 5
Anderson, South Carolina

Dear Dr. Royster:

You have indicated to me that The Anderson Independent, on May 13, 1973, reported that in an opinion written by me that I had stated 'that the district, through previous bond issues, had already exceeded the debt limit by \$376,000.00 and [that] the proposed increase would further exceed the limit.'

It is true that in an opinion written by me on May 10, 1973, a copy of which is enclosed, the statement was made that I had been informed that 'at the present time the assessed value of all taxable property in School District No. 5 is \$32,000,000, or an amount which exceeds the debt limit by \$376,000.00.' I further stated that 'in the event bonds totalling \$1,630,000.00 are issued by the School District, the bonded indebtedness . . . will amount to approximately \$10,006,000.00, an amount greatly exceeding the twenty-five (25%) per cent debt limitation.' See, Letter to W. N. Clinkscales, Jr., from C. Tolbert Goolsby, Jr., May 10, 1973. That information was provided by Representative W. N. Clinkscales, Jr., of Anderson County.

Representative Clinkscales, however, failed to reveal at the time the aforementioned opinion was requested by him that School District No. 5 maintains a sinking fund which has been inviolably pledged to the payment of the general obligation bonds of the district. After that opinion was written, he called informing me of that fact. I then told him then an opinion would be forwarded to him the week of May 14, 1973, advising him as to whether or not a sinking fund may be considered a deductible item in determining whether the district's indebtedness is within the constitutional debt limitations.

Today, an opinion addressed to Representative Clinkscales has been prepared and mailed to him. I told Representative Clinkscales that, in my view, a sinking fund that has been appropriated for the payment of a debt contemplated by the constitutional restriction is to be deducted in computing the actual indebtedness of the School District. See, 56 Am. Jur. 2d Municipal Corporations, Etc. § 670 at 717-718.

In my judgment, and as I have said before, the proposed legislation is constitutional. If, however, bonds, which it authorizes, are issued and the constitutional debt limit is thereby exceeded, that bond issue would be invalid; and in determining whether or not the debt limit is exceeded upon the issuance of general obligation bonds pursuant to the proposed act, the sinking fund of the School District is to be considered a deductible item. Where then, the issuance of general obligation bonds pursuant to the proposal, is within the constitutional debt limit, the issuance of such is valid.

I sincerely hope that the foregoing satisfactorily clarifies the entire situation regarding the proposed legislation that authorized School District No. 5 to issue general obligation bonds not to exceed \$1,630,000.00. Matters of this nature, I should state in closing, are best handled by either the district's or the county's attorney because either officer is in a better position to learn all of the facts that are involved.

Sincerely,

*2 C. Tolbert Goolsby, Jr.
Deputy Attorney General

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