

1973 WL 27606 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 10, 1973

***1 Re: Power of Sumter County Commission to veto District 17 School Board assessed taxes.**

G. Werber Bryan, Esquire
County Attorney
P. O. Box 2038
Sumter, South Carolina

Dear Mr. Bryan:

Please forgive the long delay, in responding to your request for an opinion on the authority of the Sumter County Commission to exercise supervisory or veto power over tax levies assessed by School District 17 for revenue raising purposes.

As you state in your letter, School District 17 has been granted the specific authority to levy taxes pursuant to Act No. 1335 of 1968, 55 Stat. Act 1335, § 1 at 3119 (1968). Act No. 1335 amended Section 14-3425 of the South Carolina Code of Laws which delineates, inter alia, the powers of the Sumter County Commission. That same Act contains the following provision: . . . the commission shall have no power with respect to the levy of taxes for school purposes for School District No. 17, which power is hereby vested in the Board of Trustees of School District No. 17, except that if the board of trustees of such school district deems it necessary to increase its taxes the commission shall, by a majority vote, approve such increase before it shall be levied. 55 Stat. at 3119 (1968).

Our research fails to disclose that Section 1 of Act No. 1335 has been repealed or altered in any way. It appears to us, therefore, that the Sumter County Commission already possesses a veto power over taxes levied by the District 17 Board if those taxes are to be increased, since, by the above quoted language, the Commission must approve such increase before it can be levied.

The doctrine of separation of powers has been held not to apply to municipal government, [Gaud v. Walker](#), 214 S. C. 451, 53 S. E. (2d) 316 (1949); See, 16 Am. Jurr. (2d) Constitutional Law § 211 at 451 (1964), since local governing bodies generally partake of all three branches of government. See, 20 C.J.S. Counties § 74 at 834 (1940). It would appear, therefore, that the holding of [Gunter v. Blanton](#), 259 S. C. 436, 192 S. E. (2d) 473 (1972), would not be dispositive of the issues raised in your letter.

If you should have any further questions regarding this matter, please do not hesitate to let us know.

Very truly yours,

Karen L. Henderson
Legal Assistant

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