

1981 S.C. Op. Atty. Gen. 46 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-27, 1981 WL 96553

Office of the Attorney General

State of South Carolina

Opinion No. 81-27

March 25, 1981

**\*1 SUBJECT: Public Funds—The Loan or Investment of Public Funds by a Special Purpose District.**

The North Charleston Sewer District is not authorized to loan its funds, however, the same may be invested in general obligations of the State and its political units.

To: David G. Jennings, Esquire  
Attorney for North Charleston Sewer District

QUESTION:

Can the North Charleston Sewer District loan funds to the North Charleston District?

APPLICABLE LAW:

Act 1768, Acts of 1972; [§ 6–5–10 of the Code of Laws of South Carolina, 1976](#); [Article X, § 14 of the South Carolina Constitution](#).

DISCUSSION:

The power of the two districts are provided by the Act, however, there is not authority therein conferred to loan the funds of either district. The general rule is that public funds cannot be loaned.

‘Unless a valid statute authorizes it, no public agency has a right to loan public funds.’ 63 Am.Jur.2d, [Public Funds](#), § 2.

In the absence of statutory authority, the District may not loan public funds. We find no authority for the ‘loan’ of the public funds, however, the General Assembly has provided authority in [§ 6–5–10](#) for the Sewer District to invest funds in general obligations of the State and its political entities.

‘The governing body of any municipality, county, school district, or other local government unit or political subdivision and county treasurers may invest money subject to their control and jurisdiction in:

(2) General obligations of the State of South Carolina or any of its political units: (c) Such investments shall have maturities consistent with the time or times when the invested moneys will be needed in cash.’

A general obligation is defined in [Article X, § 14\(3\)](#) to mean:

‘\* \* \* any indebtedness of the political subdivision which shall be secured in whole or in part by a pledge of its full faith, credit and taxing power.’

[Section 14\(8\)](#) of the Article further provides:

'General obligation debt may also be incurred in anticipation of the collection of ad valorem taxes or licenses (tax anticipation notes) under such terms and conditions as the General Assembly may prescribe by general law. Such tax anticipation notes shall be secured by a pledge of such taxes or license fees and a pledge of the full faith, credit and taxing power of the political subdivision. All tax anticipation notes shall be expressed to mature not later than ninety days from the date as of which such taxes or license fees may be paid without penalty.'

The General Assembly has by § 11-27-40(5) authorized the District to issue tax anticipation notes.

The North Charleston Sewer District thus may not loan funds to the North Charleston District. It may, however, invest funds in general obligations of the District.

CONCLUSION:

The North Charleston Sewer District is not authorized to loan its funds, however, the same may be invested in general obligations of the State and its political units.

\*2 Joe L. Allen, Jr.  
Deputy Attorney General

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