

1981 WL 158017 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 19, 1981

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Dear Mr. Ruth:

In response to your request for an opinion from this Office as to whether or not the Hilton Head No. 1 Public Service District (District) is authorized to contract to supply water and other utilities services outside the boundaries of its service area, my opinion is that it is not so authorized.

The District was created in 1969 [56 STAT. 1036 (1969)] and was granted the following power *inter alia*:

. . . [T]o enter into contracts with the Forest Beach Public Service District, the Sea Pines Public Service District and other public and private corporate bodies for purchase and sale of water or other utilities service; . . . 56 STAT. at 1040 (1969).

Inasmuch as the language authorizing the District to contract for services with corporate bodies is coupled with language authorizing it to contract in the same way with other specific special purpose districts which are clearly not within the service area of the District, a reasonable inference can be drawn that the 'other' public and private corporate bodies likewise can be located outside of the District's service area. In 1972, however, the 1969 legislation was amended to provide a method by which property owners contiguous to the District can be annexed thereto. 57 STAT. 3402 (1972). That same legislation contains the following additional power:

The Commission shall cooperate with other public service districts or special service districts on Hilton Head Island in order to provide the maximum services to the citizens of Hilton Head Island.

Because this language does not include corporate bodies other than special purpose districts, the intent seems, at least to me, to be that the provision of services to a non-contiguous area outside the District's service area is to be made by other special purpose districts. The General Assembly had included other corporate bodies, public and private, in the 1969 grant of authority to contract with special purpose districts for services and, accordingly, its failure to do so in the 1971 amendment can be construed as an intentional omission. In any event, I think that the only clearly authorized method for property owners whose property is not contiguous to the District's service area to receive water and other utilities services is to use the services of special purpose districts within which their property is located. If the non-contiguous property is not located within the service area of a special purpose district, the Beaufort County Council can be petitioned to enlarge the service area of a contiguous district pursuant to [Sections 6-11-410 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended.

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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