

1977 WL 37355 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 6, 1977

*1 Mr. Charles Traynor Ferillo, Jr.
Executive Director
Research and Personnel
House of Representatives
Post Office Box 11867
Columoia, South Carolina 29211

Dear Mr. Ferillo:

Your letter of June 3, 1977, requests my opinion upon the following problem:

‘A member of the House has requested me to secure your opinion as to whether or not it is permissible for the Anderson County Water and Sewer Authority to be organized at this time pursuant to its 1974 enabling legislation thereby assuming the duties and powers which have been performed in the interim by the Anderson County Planning and Development Board.’

Act No. 1340 of 1974 (74 Acts 3110) created the Anderson County Water and Sewer Authority. This Act was therefore subsequent to the ratification date of Article VIII of the Constitution of this State (Home Rule). Under the decisions of the Supreme Court of this State, it is most probably unconstitutional but its validity must be presumed until it is disposed of, either by legislation or by court decision.

As the authority is apparently functioning now under the interim authority of the County Planning and Development Board, I presume that it has entered into various contractual obligations and otherwise conducted the work which it was created to perform.

In this view, it is my opinion that the Legislative Delegation should make the recommendations for appointment to the governing board, as required by Section 11 of the organic act, or, in the alternative, await a declaration by a court as to the constitutionality of Act No. 1340 of 1974 which created the Anderson County Water and Sewer Authority.

Very truly yours,

Daniel R. McLeod
Attorney General

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