

1976 WL 30428 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 19, 1976

*1 Mr. Francis K. Sullivan
Charleston County Legislative Delegation
P. O. Box 487
Charleston, South Carolina 29401

Dear Mr. Sullivan:

You have requested an opinion from this Office as to the constitutionality of a bill, H-3335, which, if enacted, will amend Act No. 1768 of 1972, as amended by Act No. 1370 of 1974, relating to the North Charleston Sewer District.

First, the bill should be redrafted because, as it now reads, it strikes the last two paragraphs of 'Act 1768 of 1972, as amended by Act 1370 of 1974.' The 'last two paragraphs' of Act No. 1768 of 1972 relate to the abolition of the North Charleston Consolidated Public Service District and to the effective date of the Act; my understanding is that the bill is intended to strike the last two paragraphs of Section 3 of Act No. 1768 of 1972, as amended by Act No. 1370 of 1974, thereby removing from the District's service area those areas which had been added thereto by the 1974 amendment.

The bill, although it is special legislation, may well be constitutional because, if enacted, it will effectively repeal an act which itself is most likely invalid. The bill will nullify the provisions of Act No. 1370 of 1974 which Act added new areas to the District. Earlier in 1974, however, the General Assembly had enacted Act No. 926 which authorized the governing bodies of counties to alter the boundaries of special purpose districts situated therein; the findings of the General Assembly as expressed in Section 1 of that Act indicate that the General Assembly itself doubted that it could pass a special law like Act No. 1370, to wit:

By reason of the adoption of new Article VIII to the Constitution of this State as of March 7, 1973, questions exist as to the power of the General Assembly to enact laws for specific counties which would enlarge the area of any existing special purpose district or which would allow two or more special purpose districts to consolidate. . . . In order to provide a means by which existing special purpose districts may be enlarged, diminished or consolidated, the General Assembly has determined to grant to the governing bodies of the several counties of the State the power to enlarge or diminish the areas and consolidate the areas and functions of any special purpose districts within such county.

In enacting this act, the General Assembly is by general law exercising powers specifically granted to it by Section 7 of new Article VIII of the Constitution.

Inasmuch as the bill under consideration, if enacted in the redrafted version as hereinabove discussed, will repeal an apparently proscribed special law, my opinion is that it is most probably valid. See, [Robertson v. Mena Bonded Warehouse Co., et al.](#), 223 S.W. 378 (1920); [State v. Prather](#), 112 P. 829 (1911); cf., 1A SUTHERLAND, STATUTORY CONSTRUCTION § 22.05 (4th Ed. 1972).

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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