

1976 WL 30486 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 7, 1976

*1 Mr. James A. Stuckey, Jr.
Chairman
Charleston County Council
2 Court House Square
Charleston, South Carolina 29401

Dear Mr. Stuckey:

You have requested an opinion from this Office as to the meaning of the following language contained in Section 14-3703(5) of Act No. 283, the 'home rule' legislation:

provided, further, that except as otherwise prescribed by law such referendums of [sic] petitions creating special tax districts shall not be required with regard to taxes levied in the entire unincorporated area of the county; . . .

Specifically, your inquiry is whether or not that language requires that, before the creation of a police district to serve the entire unincorporated area of Charleston County, either the referendum or the petition procedures set forth in Sections 14-3703(5)(a), (b) and (c) of the Act must first be followed because of the provisions of Sections 53-301 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended. In my opinion, it does not.

The petition and election procedures prescribed by Sections 53-301 et seq. relate to the creation of a police district for 'unincorporated villages or towns or thickly populated areas outside the limits of incorporated municipalities,' and not to the creation of a police district for the entire unincorporated area of a county, including the rural and sparsely populated areas thereof. More important, however, is the fact that a police district created pursuant to Sections 53-301 et seq. does not become thereby a county police district but, instead, is to be governed by a board of commissioners defined as a body politic [see, § 53-305]. Any special tax district created pursuant to the provisions of Act No. 283, however, necessarily an agency or subdivision of the county to be regulated not by an independent or autonomous commission but by that county's governing body. In my opinion, the language 'except as otherwise prescribed by law' has reference primarily to other provisions of Act No. 283; for example, the proviso immediately following the one hereinabove quoted prescribes that, before any appropriation relative to police protection resulting in the reorganization, restructuring or duplication of duties of a sheriff's department can take effect, the county electorate must first approve such appropriation by referendum. This latter proviso, in my opinion, would apply irrespective of whether such appropriation were to affect the entire unincorporated area of a county or not and represents the type of legislation contemplated by the language 'except as otherwise prescribed by law.' Cf., 58 STAT. 2681 (1974).

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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