

1972 WL 25930 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 22, 1972

***1 Re: NCCPSD, Tax Levy**

Honorable Allen R. Carter
Member of the Senate
State House
Columbia, South Carolina

Honorable Arnold S. Goodstein
Member of the House of Representatives
State House
Columbia, South Carolina
Honorable John L. Henson
Member of the House of Representatives
State House
Columbia, South Carolina

Gentlemen:

You have inquired whether or not the area now comprising the City of North Charleston is still a part of the NCCPSD, and, if so, whether or not any tax levy imposed by the district must be the same throughout the district—including the City of North Charleston.

There is nothing in the law of this State (Constitution, statutes or common law) providing generally that the area included in a public service district ceases to become a part of the district when that area becomes a municipality. Likewise, the law does not prevent district services from being furnished to areat of the district within a municipality, even though some of those services might be the same services the municipality is empowered to furnish. McQuillan, Municipal Corporations, S.7.08. See also Maine v. Port of Seattle, 70 Wash. 294, 126 P. 628. Cf.: Wagner v. Smith, 71 S.E.2d 1, in which the South Carolina Supreme Court stated that two governmental unite with general governmental powers may not occupy the same territory, such as a municipal government and a special township government.

Unless and until the General Assembly acts to change the area of the NCCPSD, that area remains the same as it was before the City of North Charleston was created.

Any ad valorem tax levied by a taxing authority, such as a public service district, must be uniform and must provide for an equal rate of assessment and taxation throughout the district. Article 10, Constitution of South Carolina; Parker v. Bates, 216 S.C. 52, 56 S.E.2d 723.

In view of the foregoing it is the opinion of this Office that any tax levied by the NCCPSD, as the law now stands, must be imposed equally and uniformly on all affected property within the district—including that situate within the City of North Charleston.

Yours very truly,

Joseph C. Coleman

Deputy Attorney General

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