



ALAN WILSON
ATTORNEY GENERAL

September 21, 2026

The Honorable David R. Hiott, Member
South Carolina House of Representatives
1105 Pendleton Street
518-C Blatt Building
Columbia, SC 29201

Dear Representative Hiott:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You request an opinion on the appointment authority for all Pickens County water district boards as well as what statutory changes are needed to make certain the appointment authority is well-defined and clear.

Law/Analysis

Several water districts operate in Pickens County. This office has conducted significant research in our effort to correctly answer your questions, but our office lacks the authority to investigate and find facts. Additionally, unlike a court, our office lacks the benefit from the input of adversarial parties. Because of these limitations, there is a distinct possibility that the information we have been able to locate is incomplete or inaccurate.

Rural Community Water Districts: Bethlehem-Roanoke Rural Community Water District and Six Mile Rural Community Water District

We begin with a discussion of rural community water districts. In 1964, the General Assembly passed Act 1022 “to permit the creation of rural community water districts.” Act No. 1022, 1964 S.C. Acts 2341. Act 1022 provided that districts formed pursuant to its provisions “shall be bodies corporate and politic of perpetual succession.” *Id.* The purpose and function of such districts is:

to acquire, construct and operate a waterworks system, utilizing therefor water from available sources, by purchase or otherwise, at such convenient points as the district[s] shall select, to provide a flow of water through pipes for domestic, commercial or industrial users who can be conveniently and economically served within or without the service area as may be created.

Id.; S.C. Code Ann. § 6-13-10 (2004). The general provisions governing these special purpose districts were codified in Title 6, Chapter 13, Article 1 of the Code of Laws of South Carolina. Among others, statutes in Article 1 include the procedure for creation of such districts (Section 6-13-20), the powers of the districts (Section 6-13-50), and the procedure for dissolution of districts (Section 6-13-120). Each district is operated and managed by a board of directors. S.C. Code Ann. § 6-13-30(A) (Supp. 2025). The inaugural boards are to “consist of five resident electors of the area . . . appointed by the Governor, upon the recommendation of a majority of the county legislative delegation” with terms of differing lengths. Id. On expiration of those initial terms, new members are to be chosen through the same appointment process but with each board member appointed to a six-year term. Id. By way of a 2006 statutory amendment, the General Assembly provided the board “may revise the size of the board to not less than five members nor more than ten members.” § 6-13-30(B).

Although this office has been unable to locate each district’s originating documents, it is our understanding based on a review of Pickens County’s portal for boards and commissions, the Secretary of State’s biennial directories of special purpose districts, and the Secretary of State’s log books of appointments and commissions that Bethlehem-Roanoke Rural Community Water District and Six Mile Rural Community Water District were both created pursuant to and are governed by the provisions of Title 6, Chapter 13, Article 1.¹ Thus, consistent with Section 6-13-30, individuals are to be appointed to these districts’ board of directors by the Governor on the recommendation of the majority of the Pickens County Legislative Delegation.

¹ Pickens County’s portal for boards and commissions is located at <https://pickenscsc-bc.app.transform.civicplus.com/> (Last visited September 9, 2026). The Secretary of State’s 2025 biennial directory of special purpose districts is available at <https://sos.sc.gov/sites/sos/files/Documents/Mail%20In%20Service/Municipalities/2024%20SPD%20Directory.pdf> (Last visited September 9, 2026). The Secretary of State’s 2010 directory of the special purpose districts can be found on the South Carolina State Library’s website at <https://dc.statelibrary.sc.gov/server/api/core/bitstreams/55109f56-382c-40b2-8532-2fa1392cfa6e/content> (Last visited September 9, 2026). Several of the Secretary of State’s directories of special purpose districts dated 2001 through 2008 can be found at the South Carolina Department of Archives and History. Additionally, this office reviewed several of the log books of appointments and commissions created by the Secretary of State at the Department of Archives and History where they are housed.

We are aware that some people cite to acts of special legislation that pre-date the adoption of home rule for the position that, despite the clear language of Section 6-13-30, Pickens County Council, rather than the Pickens County Legislative Delegation, is the body with the authority to recommend individuals to the Governor for appointment to rural water district boards. We believe reliance on those acts is understandable but misplaced. As our Supreme Court has noted, “[t]he interaction of counties with special purpose districts existing prior to home rule is indeed confusing.” Berry v. Weeks, 279 S.C. 543, 548, 309 S.E.2d 744, 747 (1983).

Prior to 1973, state legislators governed their home counties through acts of the General Assembly. Pinckney v. Peeler, 434 S.C. 272, 296, 862 S.E.2d 906, 919 (2021) (“Before 1973, legislators governed their home counties through acts of the General Assembly.”). In 1969 the General Assembly created the County Council of Pickens County with terms beginning in January of 1971. Act No. 330, 1969 S.C. Acts 404. Section Four of Act 330 provided that once the council members assumed office, “all appointments in Pickens County to be made upon the recommendation of the county legislative delegation shall henceforth be made upon the recommendation of a majority of the council except as provided in the Constitution of the State.” This language was amended by 1971 Act Number 280, but the intent remained the same – once the inaugural members assumed their offices, any appointments previously made on the recommendation of the county legislative delegation would in the future be made on the recommendation of county council. Act. No. 280, 1971 S.C. Acts 323. However, the current Pickens County Council is not the same governing body as was created by Act Number 330 of 1969 and referenced in Act Number 280 of 1971. Instead, following the adoption of home rule in 1975, the voters of Pickens County chose their new form of government from the standardized forms established by the General Assembly. On multiple occasions since the adoption of home rule, we have been asked whether the appointment authority outlined in these 1969 and 1971 acts concerning Pickens County are still in effect. It has been our opinion that the appointment authority devolved to the County Council of Pickens County did not survive the enactment of home rule. Ops. S.C. Att’y Gen., 1977 WL 37198 (Aug. 1, 1977); 2016 WL 302692 (May 12, 2016). This remains our opinion today.

Further, we note the South Carolina Constitution provides that “no county shall be exempted from the general laws.” S.C. Const. Art. VIII, § 8. The authority to recommend individuals to serve on the boards of rural community water districts is granted to the county legislative delegation by Section 6-13-30, a general law to which Pickens County is not exempt.

We have also been advised that the boards of some water districts have adopted bylaws that purport to impact how new board members are selected. Although there is no prohibition on the users or board members of a water district from making their own recommendations to the body with the actual recommending authority, the bylaws of a water district cannot supersede the appointment process provided by Section 6-13-30. See 2002 WL Op. S.C. Att’y Gen., 31341825 at *1-2 (Sep. 9, 2002).

Southside Rural Community Water District

Southside Rural Community Water District (Southside) likely has the same statutory origin as Bethlehem-Roanoke Rural Community Water District and Six-Mile Rural Community Water District, but questions remain about its history as well as the recommending authority for its board members. First, there is disagreement in publicly available records about whether Southside was formed pursuant to Title 6, Chapter 13 of the South Carolina Code or pursuant to Title 6, Chapter 11, which addresses special purpose districts and public service districts generally. The Pickens County portal for boards and commissions and the Secretary of State's logbooks for appointments and commissions both indicate Southside was formed pursuant to Title 6, Chapter 13. The Secretary of State's biennial directory of special purpose districts, however, indicates Southside was formed in 1967 pursuant to Title 6, Chapter 11. The information about Southside's enabling legislation has remained the same in the Secretary of State's directories since its first appearance in 2004. This may be a typo, but another explanation is possible. Staff at the Secretary of State's Office located a 1982 petition about Southside in their files. The petition, signed by the board's chairman and secretary, stated that the district was formed pursuant to Act Number 1022 of 1964, which as we have discussed was codified as Title 6, Chapter 13, Article 1. The petition indicated the district was located entirely within Pickens County, but that the board sought to amend the district's boundaries, expanding into a portion of Anderson County. The petition cites statutes in Title 6, Chapter 11, Article 3 as permitting the expansion. This may explain why the Secretary of State's directories for special purpose districts list Title 6, Chapter 11 as the enabling legislation for Southside. After reviewing this history, we think it most likely that Southside was formed pursuant to Title 6, Chapter 13, Article 1 and we proceed with this opinion under that assumption.

Assuming Southside was formed pursuant to Title 6, Chapter 13, Article 1, we believe the General Assembly intended that its board members be appointed by the Governor on the recommendation of the county legislative delegation. However, according to the Secretary of State's directory of special purpose districts, Southside provides service to portions of both Pickens County and Anderson County. Unfortunately, the general provisions of Article 1 do not provide directions on how the recommendations for board appointments are to be apportioned between two county legislative delegations. Because Southside is not limited to a single county, we believe the General Assembly could prescribe rules specifically for appointment of Southside's board members without offending the prohibition on laws for a specific county contained in Article VIII, Section 7 of the South Carolina Constitution. Alternatively, the General Assembly could choose to adopt statutes clearly providing for appointments of board members for all multi-county water districts. In the meantime, a court might turn to the other articles of Title 6, Chapter 13, as statutes within these articles provide the framework for appointing board members to three specific multi-county rural water districts and one multi-county water authority. These statutes provide three different avenues for new members to join the governing bodies of the multi-county entities: (1) election by qualified resident electors (Pioneer Rural Water District of Oconee and Anderson Counties, Section 6-13-230 (Supp. 2025)); (2) appointment by the Governor on the recommendations of a majority of residents attending a properly noticed public meeting (Saluda

Valley Rural Water District of Pickens and Anderson Counties, Section 6-13-430 (2004)² and Mitford Rural Water District, Section 6-13-610 (2004)); and (3) appointment by the Governor on the recommendation of the majority of county legislative delegation with up to two of seven members selected from the small service area located in the neighboring county (Edgefield County Water and Sewer Authority, Section 6-13-920 (Supp. 2025)). Although we believe Southside was formed under statutes demonstrating the General Assembly's intent that board members should be recommended by the county legislative delegation, the fact that it now serves more than one county leaves the practical question of how to approve those recommendations unanswered. In light of that and the existence of a variety of other board member selection options from which a court might pick, we cannot confidently say how members of Southside's board should be appointed.

Easley-Central Water District

The Easley-Central Water District was originally created by special legislation of the General Assembly in 1958, years before the adoption of the general statutes governing rural community water districts. Act No. 1163, 1958 S.C. Acts 2627. It was originally named Liberty-Norris-Central Water District. *Id.* Its governing body is a commission and the initial commission members were named in the enabling legislation. Successive members of the commission were to be appointed by the Governor on the recommendation of the Pickens County Legislative Delegation. *Id.* In 1959, the General Assembly amended the original legislation in several respects. Among other things, the number of commissioners was increased and the district was renamed the Easley-Central Water District. This amendment made no change to the appointment process. Act No. 498, 1959 S.C. Acts 1204. The initial legislation was amended once more in 1972 to address issues that might arise in the event of municipal annexation of land within the original district, but again no change was made to the appointment process. Act. No. 1941, 1972 S.C. Acts 3900.

Our Supreme Court has held that special acts, such as the act that created what is now known as the Easley-Central Water District, "remain valid until repealed or superseded by general law." *Berry v. Weeks*, 279 S.C. at 547, 309 S.E.2d at 746. Pursuant to Act Number 1163 of 1958, the Pickens County Legislative Delegation is the body with the authority to recommend individuals to the Governor for appointment to the Easley-Central Water District. The legislative delegation is free to accept nominations or recommendations from any source, including the district's users, the district's current commissioners, or county council, but the power to recommend individuals to the Governor remains with the delegation.

² The Saluda Valley Rural Water District of Pickens and Anderson Counties is not listed in the South Carolina Secretary of State's current directory of special purpose districts and, to our knowledge, is not currently an ongoing entity.

Powdersville Water District

The Powdersville Water District also does not bear the name of a rural community water district and is not governed by Chapter 13 of Title 6. According to the Secretary of State's Directory of special purpose districts, it provides water service to a portion of Anderson County and a small section of Pickens County. Powdersville Water District originated as a nonprofit corporation named Saluda Valley-Powdersville Water Company. <https://powdersvillewater.org/history/> (last visited September 9, 2026). It was later renamed Powdersville Water Company and then, in 2001, it was converted into a public service district pursuant Title 33, Chapter 36, Article 8, specifically Section 33-36-1310. S.C. Code Ann. §§ 33-36-1310 through 33-36-1370 (2006 & 2025 Supp.). For a district converted pursuant to Section 33-36-1310, the default method of choosing new board members is for the Governor to appoint them on the recommendation of the county legislative delegation. S.C. Code Ann. § 33-36-1330(A) (Supp. 2025). Using this method, the county legislative delegation must consider any individual(s) recommended by the current board, but is not constrained by the board's recommendation(s). *Id.* Under this method, a vacancy of an unexpired term on the board may be filled by the board if less than two years remains on the term. *Id.* Nonpartisan general elections are an alternative to the default method, but a resolution adopted by two-thirds of the board is necessary to trigger this method. § 33-36-1330(C). Because it is our understanding that at least some of the board members are recommended to the Governor by the Anderson County Legislative Delegation,³ we do not believe Powdersville Water District board members are elected through a nonpartisan election.

Unfortunately, Section 33-36-1330(A), which outlines the default method, does not provide for how appointment recommendations are apportioned when the district serves more than one county and was converted pursuant to Section 33-36-1310. Although the General Assembly adopted an indexed method for the appointment of board members for a converted district providing service in more than one county, that method only applies to districts converted under Section 33-36-1315. § 33-36-1330(B). Section 33-36-1315 was added to the South Carolina Code in 2012, well after the conversion of the former Powdersville Water Company to the Powdersville Water District. We believe a statutory amendment could clarify the appointment process for Powdersville Water District as well as similarly situated, converted districts. Despite the doubt regarding the how recommendations are apportioned, it is the opinion of this office that the recommending authority lies with the legislative delegation or delegations.

Recommendations for Clarifying the Appointment Process

Currently, determining the appointment process for water districts requires a complex review of numerous statutes and non-codified legislation. As with any organization, institutional

³ See <https://www.andersoncountysc.org/anderson-county-legislative-delegation/> (last visited September 8, 2026).

memory of a water district fades over time. The passage of time also makes it harder to find documents demonstrating how specific districts were formed. To make certain everyone involved understands how members of these valuable government entities are selected, this office recommends creating a streamlined statutory scheme for the appointment process for water districts with the distinctions made not by how an individual district was formed, but by whether it serves users in more than one county.⁴

Conclusion

It is the opinion of this office that the Governor appoints individuals to the rural community water districts located solely in Pickens County based on the recommendation of the majority of the Pickens County Legislative Delegation, namely Bethlehem-Roanoke Rural Community Water District and Six Mile Rural Community Water District. The Pickens County Legislative Delegation also recommends individuals to the Governor for appointment as Commissioners of the Easley-Central Water District. Board members of Southside Rural Community Water District and Powdersville Water District are also appointed by the Governor based on legislative delegation recommendations, but gaps in the relevant statutes leave doubt as to any apportionment of recommending authority for these multi-county districts. This office recommends the General Assembly adopt streamlined statutes regarding appointment to water districts to make the process clear to all involved.

Sincerely,

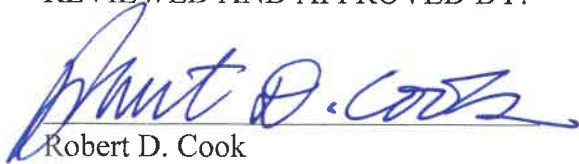


Sabrina C. Todd
Assistant Attorney General

⁴ We are aware that as a result of the Fourth Circuit Court of Appeals' decision in Vander Linden v. Hodges, 193 F.3d (4th Cir. 1999), South Carolina's legislative delegations typically use weighted voting to comply with the Equal Protection Clause of the United States Constitution. It has been the opinion of this office that Vander Linden is inapplicable to bodies comprised of multi-jurisdictional delegations. Op. S.C. Att'y Gen., 2007 WL 6556618 (Feb. 21, 2007) (opining that members of the legislative delegation from the First Congressional District could vote on appointment of SCDOT commissioner without the necessity for weighted voting). For this reason, should the General Assembly choose to place the authority to recommend individuals for appointment to multi-county water districts with a joint body of the respective county legislative delegations, we do not believe weighted voting is necessary to avoid violation of the Equal Protection Clause.

Representative David R. Hiott
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REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook", is written over a horizontal line.

Robert D. Cook
Solicitor General Emeritus