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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

October 22, 1996

The Honorable Larry L. Koon  
Member, House of Representatives  
2263-C Old Cherokee Road  
Lexington, South Carolina 29072

RE: Informal Opinion

Dear Representative Koon:

Attorney General Condon has forwarded your letter to me for reply. You seek an opinion on whether a proposed Lexington County Water and Sewer Referendum question is unconstitutional under S.C. Const. art X, § 12. You also seek an interpretation of the term "economic development."

The Referendum question, as provided to this Office in your correspondence, reads as follows:

"Shall Lexington County be authorized with *General Funds* (property taxes and any other revenues) to acquire, by purchase or construction, own, operate and maintain a water and sewer system or systems to provide water and sewer service to specific areas under any of the following circumstances: (i) upon request of citizens to form a special tax district to pay the costs thereof; (ii) to provide for economic development; (iii) to address health or environmental problems or (iv) in any other circumstances where such activities are funded through grants or revenues derived from the operation of such system or systems." (Italics in copy provided to this Office).

You "base your request for a constitutional ruling on Article X - Paragraph 12- South Carolina Constitution ... ." Article X, § 12 reads as follows:

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No law shall be enacted permitting the incurring of bonded indebtedness by any county for sewage disposal or treatment, fire protection, street lighting, garbage collection and disposal, water service or any other service or facility benefitting only a particular geographical section of the county unless a special assessment, tax or service charge in an amount designed to provide debt service on bonded indebtedness or revenue bonds incurred for such purposes shall be imposed upon the area or persons receiving the benefit therefrom.

When construing the constitution, the Court applies rules similar to those relating to the construction of statutes. Davis v. County of Greenville, 313 S.C. 459, 443 S.E.2d 383 (1994). The Court must give clear and unambiguous terms their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation. Id.

The plain language of Article X, § 12 addresses only a county's use of bonded indebtedness to fund certain services and facilities, including sewer and water, to a particular geographical section of the county. Nothing in Article X, § 12 pertains to a county's use of general funds to provide for water and sewer systems. Therefore, since Lexington County's proposed referendum question addresses the use of general funds to acquire, own, operate and maintain a water and sewer system, and not the use of bonded indebtedness, the proposed question does not run afoul with Article X, § 12.

You also ask for an interpretation of the term "economic development." The courts in South Carolina have never specifically defined the term "economic development." However, it is well established that all legislative action must serve a public purpose. Elliot v. McNair, 250 S.C. 75, 156 S.E.2d 421 (1967). A public purpose has for its objective the promotion of the public health, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents within a given political division. Nichols v. South Carolina Research Authority, 290 S.E.2d 415, 351 S.E.2d 155 (1986). The Supreme Court has found that industrial development is a public purpose for which public revenues may be appropriated and expended. Id.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

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With kindest regards, I remain

Very truly yours,

A handwritten signature in cursive script that reads "Paul M. Koch".

Paul M. Koch  
Assistant Attorney General