



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

October 19, 1990

The Honorable Joe Wilson
Senator, District No. 23
Post Office Box 5709
West Columbia, South Carolina 29171

Dear Senator Wilson:

By your letter of October 12, 1990, you have advised that questions have arisen as to how the Irmo Fire District could be dissolved. Specifically, you ask whether the district could be dissolved by referendum. In the alternative, you ask whether the district could be dissolved by a legislative act.

The Irmo Fire District was created by act of the General Assembly, Act No. 387 of 1963, and a subsequent successful referendum. The 1963 act was amended by Act No. 1074 of 1966, Act No. 892 of 1971, and Act No. 794 of 1978. We concur with your statement that this district is a special purpose district. Op. Atty. Gen. No. 84-132.

Dissolution of a special purpose district is provided for in S. C. Code Ann. § 4-9-80 (1986), which provides in pertinent part:

The provisions of this chapter shall not be construed to devolve any additional powers upon county councils with regard to public service districts, special purpose districts, water and sewer authorities, or other political subdivisions by whatever name designated, (which are in existence on the date one of the forms of government provided for in this chapter becomes effective in a particular county) and such political subdivisions shall continue to perform their statutory functions prescribed in laws creating such districts or authorities except as they may be modified by act of the General Assembly, and any such act which dissolves a district or absorbs its function entirely within the county government shall provide that such act shall be effective only upon approval of such abolition

The Honorable Joe Wilson
Page 2
October 19, 1990

or absorption by favorable referendum vote of a majority of the qualified electors of the district voting in such referendum. Upon the dissolution of any district within a county and the assumption of its function by the county government, the county shall take title to the property of the district and assume all of its debts and obligations which shall be retired by charges or assessment of taxes in those areas of the county receiving benefits from the facilities of the district;

This Code section would require a favorable referendum vote of a majority of the qualified electors of the Irmo Fire District voting in the referendum and then an act of the General Assembly to dissolve the District.

The requirement of § 4-9-80 that the General Assembly adopt an act dissolving the district has been examined in Spartanburg Sanitary Sewer District v. City of Spartanburg, et al., 283 S.C. 67, 321 S.E.2d 258 (1984); therein, the Supreme Court stated that an act by the General Assembly dissolving a special purpose district pursuant to § 4-9-80 would likely violate Article VIII, § 7 of the state Constitution, which prohibits the adoption of an act for a specific county by the General Assembly.

We understand that the Una Water District of Spartanburg County was dissolved a few years ago, following a favorable referendum vote. An act of the General Assembly relative to the dissolution (No. 301) was adopted in 1989; the Governor vetoed the act; and the Governor's veto was overridden by both houses of the legislature. A copy of an opinion of this Office relative to the constitutionality of the act, dated March 31, 1989, is enclosed.

I trust that the foregoing satisfactorily resolves your questions. If I may assist you further, please advise. With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an
Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook
Robert D. Cook
Executive Assistant for Opinions