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The State of South Carolina



Office of the Attorney General

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January 4, 1985

The Honorable Thomas M. Marchant, III
Member, House of Representatives
Post Office Box 816
Greenville, South Carolina 29602

Dear Representative Marchant:

By your letter of December 21, 1984, you have asked the opinion of this Office as to whether a legislator from either Laurens or Anderson Counties may participate in the selection of members of the governing body of the Western Carolina Regional Sewer Authority who by law are designated to come from Greenville County. You have also referred to Act No. 393, 1984 Acts and Joint Resolutions, which Act changed the name of the Authority and amended appointment procedures.

In interpreting any act of the General Assembly, the primary objective of this Office or the courts is to ascertain and give effect to the Legislature's intent. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Furthermore, when terms of a statute are clear and unambiguous, the terms must be applied according to their literal meaning. Anders v. South Carolina Parole and Community Corrections Board, ___ S.C. ___, 305 S.E.2d 229 (1983). With these rules of statutory construction in mind, the provisions of Act No. 393 of 1984 will be examined.

Section 2 of Act No. 393 provides the following concerning the composition of the governing body of the Authority:

Notwithstanding the provisions of Act 1021 of 1960, the governing body of the Western Carolina Regional Sewer Authority (formerly designated the Greenville County

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Sewer Authority) shall consist of a Commission composed of nine members who must be appointed by the Governor upon the recommendation of the legislative delegation of the county from which the member must be appointed. For all other matters respecting the Authority, the legislative delegations of Greenville, Anderson, and Laurens Counties shall act as one entity. A legislative delegation consists of all House members and Senators representing any portion of a county whose districts also include all or any part of the territory of the Western Carolina Sewer Authority. All members of the Commission must be residents of the counties comprising the Western Carolina Regional Sewer Authority and of the territory of the Authority and shall serve at large. One member must be from Anderson County and one member must be from Laurens County. Seven members must be from Greenville County. The Anderson and Laurens County Delegations shall recommend for appointment to the Governor two additional members so as to complete the Commission of nine members. One member must be appointed for a term expiring in December, 1985, and one member for a term expiring in December, 1986, with the respective terms designated in the appointments.

(Emphasis added.) The key language is emphasized above. Applying the rules of statutory construction noted above, it is the opinion of this Office that any House or Senate member whose district includes a portion of Greenville County located within the territory of the Authority would be considered a member of the Greenville County delegation for the purpose of recommending a Greenville County Commissioner to the Governor for appointment. Conversely, if a House or Senate member should represent a district which includes a portion of Greenville County which is not served in part or in total by the Authority, that Legislator would not be entitled to participate in recommending the Greenville County Commissioner for appointment. The same principles would be applicable in appointing the Commissioners from Anderson and Laurens County.

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It should be noted that Act No. 393 of 1984 in part amended Section 3 of Act No. 688, 1969 Acts and Joint Resolutions. Prior to the 1984 amendment, the provision for composition of the Commission read:

[T]he governing body of the Greenville County Sewer Authority shall consist of a Commission composed of seven members who shall be appointed by the Governor upon the recommendation of the Legislative Delegations of Greenville, Anderson and Laurens counties, such delegations acting as one entity. ...

The 1984 amendment mandates that for all other matters except appointment of Commission members, the combined Delegations of the three counties are to act as one entity. Thus, the amendment is a clear departure from the 1969 provision in which the three delegations became one entity for the purpose of appointing Commission members.

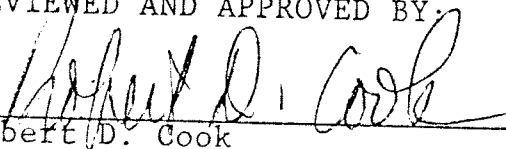
We hope that we have satisfactorily responded to your inquiry. Please advise if we may provide additional assistance or clarification.

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP:djg

REVIEWED AND APPROVED BY:


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