

The State of South Carolina



Office of the Attorney General

See 5/22/92

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ATTORNEY GENERAL

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March 30, 1987

Timothy J. Trost, Esquire
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Hilton Head Island, South Carolina 29928

Dear Mr. Trost:

By your letter of March 24, 1987, you have asked that this Office confirm or clarify Opinion No. 2455, dated May 20, 1968, which stated that a rural community water district could not be dissolved or abolished without an act of the General Assembly.

The standard of review for previously-issued opinions of this Office is to determine whether the opinion is clearly erroneous. The law relative to rural community water districts, Chapter 13 of Title 6 of the 1976 Code of Laws, has not been amended since the opinion was written. We are not aware of any Supreme Court decisions construing these laws, either. Therefore, the opinion is not clearly erroneous in light of no more recent legal or legislative action having been taken. The law as expressed therein represents the current opinion of this Office as to the issues raised therein.

One comment is in order as to the response to the third question, which appears to justify special legislation for dissolution or abolition of such districts. Subsequent to the opinion, Article VIII, Section 7 was added to the Constitution of this State; this provision prohibits the enactment of a law for a specific county. Similarly, and added to the Constitution at the same time, Article VIII, Section 10 now prohibits the enactment of a law for a specific municipality. These provisions have been interpreted in such decisions as Richardson v. McCutchen, 278 S.C. 117, 292 S.E.2d 787 (1982); Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976); Cooper River Park and Playground Commission v. City of North Charleston, 273 S.C. 639, 259 S.E.2d 107 (1979) (all construing Article VIII, Section 7); and Ops. Atty. Gen. No. 4055 and 77-129 (construing Article VIII, Section 10; copies enclosed). While in some instances

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it is possible to justify special legislation, see Ops. Attv. Gen. dated March 10, 1987 and June 16, 1986 (enclosed), it may be preferable, to avoid constitutional difficulties, to seek general legislation to provide a mechanism for the dissolution or abolition of a rural community water district.

With the additional comment as to the constitutional provisions adopted subsequent to the issuance of Opinion No. 2455, we must advise that Opinion No. 2455 is not clearly erroneous and remains the opinion of this Office.

With kindest regards, I am

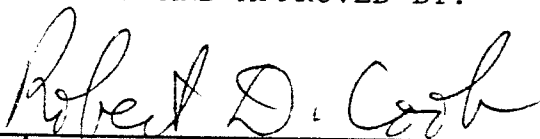
Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions