

1983 WL 181866 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 29, 1983

***1** The Honorable Richard W. Riley
Governor
State of South Carolina
Box 11450
Columbia, South Carolina 29211

Dear Governor Riley:

You have asked for an opinion from this office as to the constitutionality of H-2940 (R-80) which is styled 'An Act to Repeal Act 935 of 1956 Creating the Belvedere Water and Sewer District in Aiken County.' It is the opinion of this office that the bill is unconstitutional.

[Article VIII Section 7 of the Constitution](#) provides that '[n]o laws for a specific county shall be enacted.' This has been construed to mean that 'no law may be passed relating to a specific county which relates to those powers . . . which under the mandated systems of government [] are set aside for counties.' [Kleckley v. Pulliam](#), 265 S.C. 177, 217 S.E.2d 217, 220 (1972). Counties have been given this power to provide for 'water treatment and distribution' and 'sewage collection and treatment'. [§ 4-9-30\(5\), South Carolina Code of Laws](#), 1976. Thus, the Constitution must be deemed to prohibit the act in question here.

This result is not changed by virtue of the fact that the act deals with a special purpose district. The Supreme Court has held that '[Section 7 \[of Article VIII\]](#) is not only applicable to special legislation creating a district, but also to special legislation dealing with districts created prior to the ratification of new [Article VIII](#) . . .' (emphasis added). [Cooper River Park and Playground Commission v. City of North Charleston](#), 273 S.C. 639, 642, 259 S.E.2d 107, 108-109 (1979).

It might further be argued that this act is provided for by the Home Rule Act as an 'act which dissolves a district.' [Section 4-9-80, South Carolina Code of Laws](#), 1976. That provision of the Home Rule Act has apparently been deemed unconstitutional by the Supreme Court in [Cooper River Park and Playground Commission](#) by its holding that '[Article VIII](#) [has] divested the General Assembly of authority to deal by special act with special purpose districts pertaining to functions now delegated to counties under 'Home Rule', [supra at 642, 259 S.E.2d at 109.](#)' For the foregoing reasons, I would advise you that H-2940 (R-80) is unconstitutional.

Sincerely yours,

T. Travis Medlock
Attorney General

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