

1984 WL 249948 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 27, 1984

*1 The Honorable Ralph H. Ellis
Senator
District No. 11, Office No. 1
Post Office Box 66
Little River, South Carolina 29566

Dear Senator Ellis:

By your letter of July 13, 1984, you have asked for an opinion on whether Horry County Council has authority to consolidate the Grand Strand Water and Sewer Authority with the Horry County Water and Sewer Authority. You also asked the opinion of this Office concerning the Grand Strand Water and Sewer Authority's possible withdrawal from the South Carolina Retirement System to establish a retirement system of its own should consolidation take place.

Horry County Council derives its authority to consolidate the two authorities under [Section 6-11-410 et seq., Code of Laws of South Carolina \(1976\)](#). Those Code sections apply to special purpose districts created by act of the General Assembly prior to March 7, 1973. [Section 6-11-410\(a\)](#). The Grand Strand Authority was created by Act No. 337, 1971 Acts and Joint Resolutions, effective June 2, 1971. The Horry County Authority was created by Act No. 1856, 1972 Acts and Joint Resolutions, effective May 8, 1972. From a reading of the acts, clearly both Authorities have been given local governmental powers, also required by [Section 6-11-410\(a\)](#). Thus, under Section 6-11-420, Horry County Council, as the county's governing body, is authorized to enlarge, diminish or consolidate any existing special purpose districts located within such county and authorize the issuance of general obligation bonds by such special purpose district by the procedure prescribed by this article.

In [Berry v. Weeks](#), Op. No. 22007 (November 28, 1983), our Supreme Court recognized the county's authority under [Section 6-11-410 et seq.](#) and noted that section 'does not allow them to abolish the districts.' Davis' Advance Sheets, No. 33, page 7. Enclosed herewith are copies of the statutes setting forth the procedures for consolidation and such other authorized actions.

The General Assembly has authorized the counties to enlarge, diminish, or consolidate special purpose or public service districts within a given county since its own act to accomplish the same would likely be violative of [Article VIII, Section 7 of the state Constitution](#). Act No. 926, 1974 Acts and Joint Resolutions, which is codified as [Section 6-11-410 et seq.](#), contained the following legislative findings:

The General Assembly finds that in order to provide special service of various sorts in (as a general rule) unincorporated areas of certain counties of the State, numerous special purpose districts were created. Many of the special purpose districts created have the function of providing water to those residing within the district or sewer service which provides for the collection, treatment and disposal of sewage or other effluents. In certain instances, special purpose districts provide fire protection and garbage disposal. Others have been created to provide hospital, recreation and educational services.

*2 By reason of the adoption of new Article VIII to the Constitution of this State as of March 7, 1973, questions exist as to the power of the General Assembly to enact laws for specific counties which would enlarge the area of any existing special purpose district or which would allow two or more special purpose districts to consolidate. In view of the growth in and about many special purpose districts, it may become desirable to enlarge or consolidate such districts. In other areas where functions granted to special purpose districts have not been exercised or have only been partially exercised and a lack of need exists in portions of existing special purpose districts, it may become desirable to diminish the size of existing special purpose districts.

In order to provide a means by which existing special purpose districts may be enlarged, diminished or consolidated, the General Assembly has determined to grant the governing bodies of the several counties of the State the power to enlarge or diminish the areas and consolidate the areas and functions of any special purpose districts within such county.

In enacting this act, the General Assembly is by general law exercising powers specifically granted to it by [Section 7](#) of new Article VIII of the Constitution.

Therefore, Horry County Council would have authority to consolidate two special purpose or public service districts located within the county assuming the statutory procedures are followed. See also Op. Atty. Gen. dated October 17, 1983, a copy of which is enclosed.

Your second question pertained to the possible withdrawal of the Grand Strand Water and Sewer Authority from the South Carolina Retirement System. Enclosed is a prior opinion of this Office dated April 20, 1982, expressing the view long held that once an employer becomes a member of the Retirement System, that employer may not withdraw from the System. The opinion would apply to the Grand Strand Authority, as well.

I trust that we have responded satisfactorily to your inquiries. Please advise me if additional information or clarification should be needed.

Sincerely,

Patricia D. Petway
Assistant Attorney General

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