1983 WL 182064 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
November 23, 1983

***1** The Honorable R. Linwood Altman
Member of the House of Representatives
Georgetown County
Box 164
Pawleys Island, South Carolina 29585

Dear Representative Altman:
You have asked several questions concerning the Georgetown County Water and Sewer District (GCWSD). Each is addressed separately hereafter.

First, you asked whether § 4-9-80, Code of Laws of South Carolina, 1976 (as amended), provides a constitutional means of bringing the GCWSD under the jurisdiction of the County Council. For those reasons set out in the enclosed Attorney General's opinion to Senator Doar, we would advise that § 4-9-80 would most likely not provide a constitutional means to accomplish this.

In that regard, it is our understanding that there is a case now pending before the South Carolina Supreme Court which may provide some guidance as to this matter. We will be happy to advise you further on this matter when that decision is handed down by the Court.

Second, you have asked whether GCWSD can take over other water or sewer districts without their permission. There is no statutory procedure by which a special purpose district, acting alone, may require another special purpose district to consolidate with it or to give up any of its service area. There is a procedure by which a county council may consolidate special purpose districts lying wholely within the county. § 6-11-410, et seq., supra. However, this procedure does not permit any particular district to effect a consolidation by itself.

Third, you have asked for an interpretation of the statutory provision that the GCWSD is empowered to 'make use of county and state highway rights-of-way in which to lay pipes and lines in such manner and under such conditions as the appropriate officials in charge of such rights of way shall approve.' § 4(16), Act No. 733, ACTS & JOINT RESOLUTIONS, 1967. You have asked whether the approval should be in writing. There is no express requirement that the, approval be in writing; however, the better practice would be to have the approval set out in writing. This would protect the interests of both parties in that each party would know exactly what approval had been given. In answer to your further question, a one-time 'general permit' would most likely be legally sufficient.

Finally you asked the meaning of the phrase 'from time to time' as it is used in § 4(24), Act 733, supra. We can find no case construing that phrase in the context of a reporting requirement. In general usage it means only 'as occasion may arise; at intervals; now and then.' Florey v. Meeker, 240 P.2d 1177, 1190 (Or. 1951). In the context of this special act, it most likely means that the District should report its findings to the Delegation whenever it makes a study pursuant to § 4(24) of 'the needs of water and sewerage services in and out of Georgetown County.' However, the Act does not specify when or how frequently that study should occur. Furthermore, the District is given the discretion to make its study 'to such extent as it may deem feasible.' Id. Thus, it would appear that this does not impose any reporting requirement on the district outside the context of the study described in this section. Any local legislation to clarify this matter would most likely also be deemed unconstitutional. Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976).
Sincerely yours,

***2** David C. Eckstrom
Assistant Attorney General

1983 WL 182064 (S.C.A.G.)

End of Document