

1982 WL 189194 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 4, 1982

***1** Mr. R. E. Welch
District Manager
James Island Public Service District
1739 Signal Point Road
James Island, South Carolina 29412

Dear Mr. Welch:

On behalf of the James Island Public Service District [District], you have asked the opinion of this Office on the following questions:

1. Can the District contract with private corporations or individuals for the purpose of having them act as agents to collect monthly sewer bill payments owed the District?
2. If it can, would the collection agents have to deposit the payments directly into the account of the District, or could they deposit the payments into their own accounts incorporating those payments into checks made payable to the District?
3. If it can, must the collection agents be bonded to protect the District from losses?

The powers of the District are set forth in Section 5 of Act Number 498 of 1961, as amended. The Act expressly provides the District with certain limited powers pertaining to contracts. It is empowered to contract with existing water companies, municipalities and public agencies for the furnishing of water and other services authorized by the Act. It also is empowered to contract with the Commission of Public Works of the City of Charleston for the collection of sewer charges for the use of the sewage system maintained by the District. None of the other enumerated powers in Act Number 491 expressly refer to contracts. However, [Section 6-11-1230 of the 1976 Code](#) confers upon public service districts the power to contract with public and private agencies that operate water distribution systems for the purpose of having them collect sewer service charges for the districts.

The District, as any other similar entity created by statute, is limited in its powers to those expressly conferred upon it by statute, those incidental to the expressly conferred powers, and those reasonably implied in the statutory language conferring the powers. *Ex Parte Allstate Insurance Co.*, 248 S.C. 550, 151 S.E.2d 849 (1966); *Williams v. White*, 217 S.C. 247, 60 S.E.2d 586, 587 (1950); *Piedmont v. Northern Ry. Co. v. Scott*, 202 S.C. 207, 24 S.E.2d 353, 360 (1943); 1 Am.Jur.2d, Administrative Law, Sections 70, 72, 73. There is authority to the effect that such statutes should be strictly construed with any doubt resolved against the exercise of the power. *Williams v. White*, *supra*, S.E.2d at 588; 56 Am.Jur.2d, Municipal Corporations, etc., Sections 194, 195; Antieau, Local Government Law, Vol. 3A, Sections 30G.02, .06.

Act 498 does not expressly confer upon the District the power to contract with private corporations or individuals for the purpose of having them act as agents to collect sewer bill payments owed the District. Nor has a reasonable basis been found for concluding that it has such an incidental or implied power pursuant to that Act. [Section 6-11-1230](#) limits its authorization to contracts with public and private agencies which operate water distribution systems.

***2** Applying a strict construction to the statutory powers conferred upon the District, it is the opinion of this office that the James Island Public Service District does not have the power to contract with private corporations, other than water distribution

agencies, or private individuals for the purpose of having them act as agents to collect monthly sewer bills owed the District. Having reached this conclusion, it is not necessary to consider the other two questions posed by you.

With personal regards,

James M. Holly
Assistant Attorney General

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