

1981 S.C. Op. Atty. Gen. 51 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-31, 1981 WL 96557

Office of the Attorney General

State of South Carolina

Opinion No. 81-31

March 31, 1981

***1 SUBJECT: Municipal Corporations—Authority to Purchase and Operate Water Systems Located Outside Limits.**

A municipal corporation may purchase and improve a water supply system situate outside the corporate limits and expend available funds therefor.

TO: Honorable Thomas E. Huff
Member
South Carolina House of Representatives

QUESTIONS:

(1) Does a municipal corporation have authority to purchase and operate a water supply system located outside the corporate limits?

(2) If so, may city revenue be used for the purchase and improvement of the system?

APPLICABLE LAW:

[Article VIII, Section 16 of the South Carolina Constitution](#); [§§ 5–31–610, 5–31–620 and 5–31–660 of the South Carolina Code of Laws, 1976](#).

DISCUSSION:

The constitutional provision confers authority to purchase the system. The pertinent language of the section is that: ‘Any incorporated municipality may, upon a majority vote of the electors of such political subdivision who shall vote on the question, acquire by initial construction or purchase and may operate gas, water, sewer, electric, transportation or other public utility systems and plants.’

[Section 5–31–610](#) is the statutory authority for the purchase. Subsection (1) provides:

‘Any city or town may:

(1) Construct, purchase, operate and maintain waterworks and electric light works within or without, partially within and partially without, their corporate limits for the use and benefit of such city or town and the inhabitants thereof;’

The municipality may therefore purchase the system. An election is, however, a prerequisite to the purchase by [§ 5–31–610](#) and [§ 5–31–660](#) provides as follows:

'If a majority of the electors voting in such election shall vote for the construction or purchase of such property in question, the city or town council shall so declare by ordinance and shall acquire the property. And if a majority of the electors voting in any such election shall vote for the sale of the property in question, the city or town council shall sell, convey and transfer the same as so authorized.'

The section does not limit the source of funds and the municipality may therefore use any available funds for the purchase and improvement of the system.

The cases of [Enterprise Real Estate Co. v. City Council](#), 107 S.C. 492, 93 S.E. 184; [Dick v. Scarborough](#), 73 S.C. 150, 53 S.E. 86; [Paris Mountain Water Co. v. City of Greenville](#), 110 S.C. 36, 96 S.E. 545, fortify the conclusion here stated.

CONCLUSION:

A municipal corporation may purchase and improve a water supply system situate outside the corporate limits and expend available funds therefor.

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