

1980 WL 120701 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 10, 1980

*1 Theodore B. Guerard, Esquire
Guerard and Applegate, P.A.
Post Office Box 1119
Charleston, South Carolina 29402

Dear Mr. Guerard:

In response to your request for an opinion from this Office as to whether or not the referendum requirement of [Section 5-31-620, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, applies to the sale of the City of Goose Creek's sewerage system to the Berkeley County Water and Sewage Authority, my opinion is that it most probably does not. Nonetheless, the question is one which is not free from doubt as hereinafter discussed and, for that reason, I would recommend that a judicial determination of the question pursuant to [Sections 15-53-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (the Uniform Declaratory Judgments Act), provides the only means by which to definitively resolve it.

While I agree that the provisions of Act No. 283 of 1975, the 'home rule' legislation, and, perhaps, the provisions of the Revenue Bond Act for Utilities [[§§ 6-21-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended] have impliedly repealed the provisions of Section 5-31-720, nonetheless, [Section 5-31-620](#) remains a part of the general law of the State. Moreover, it does not expressly limit itself to utilities constructed with general obligation as opposed to revenue bonds. In fact, [Section 5-31-650, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, which is part of the same Article as [Section 5-31-620 of the Code](#), provides that the petition to call for an election on the acquisition of a water works system may also include the question of whether or not revenue bonds should be issued. Even though the latter provision speaks only to a water works system, nevertheless, it does indicate that systems financed pursuant to [Sections 5-31-610 et seq.](#) need not be financed solely by general obligation bonds.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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