

1980 WL 120839 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 20, 1980

*1 Mr. Wesley E. Felix
Chairman
Beaufort County Recreation Commission
Post Office Box 1071
Beaufort, South Carolina 29902

Dear Mr. Felix:

In response to your request for an opinion from this Office regarding the status of the Beaufort County Rural Recreation District, I can advise you that it retains its authority under Act No. 1732 of 1972 [57 STAT. 3394 (1972)] by virtue of [Section 4-9-80, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, which provides in essence that the home rule legislation does not devolve any additional powers upon county councils with respect to special purpose districts situated within their respective counties and that those districts remain as they were prior to March 7, 1973, until and unless modified by the General Assembly. I would point out, however, that the South Carolina Supreme Court has invalidated at least two attempts by the legislature to enact special legislation relating to pre-March 7, 1973 special purpose districts. See, [Torgerson v. Craver](#), 267 S.C. 1, 244 S.E.2d 510 (1978); [Cooper River Park and Playground Commission v. The City of North Charleston](#), 273 S.C. 639, 259 S.E.2d 107 (1979). In other words, the State Supreme Court seems to be saying that the legislature must legislate with respect to special purpose districts by general law only and must vest county councils with the authority to regulate them in the future. Several pieces of legislation have already vested county councils with authority with respect to various aspects of special purpose districts, to wit: [Sections 6-11-410 through 6-11-650, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, authorize a county council to alter the service area of a special purpose district situated within the county and to empower the special purpose district commission to issue general obligation bonds; [Sections 6-11-275 and 6-11-276, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, (Cum.Supp.), authorize a county council to increase the tax millage imposed by a special purpose district; Act No. 234 of 1975 [59 STAT. 331 (1975)] authorizes a county council to make uniform election dates for commissions of special purpose districts within the county; and a 1980 amendment to [Section 4-9-80 of the Code](#) (Act No. 135) authorizes a county council to change the method of selecting members of a special purpose district commission if they are presently appointed by the county council.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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