1979 WL 42835 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
March 2, 1979

***1** Piedmont Sewer, Light & Fire District Commission
Greenville, South Carolina

Gentlemen:
You have asked whether the Piedmont Sewer, Light & Fire District Commission may increase the taxes within that District without approval by the residents of that District.

I am informed that there are, in effect, three (3) subdistricts within the District and they are taxed at forty mills, twenty mills and fifty mills, respectively.

In the recent case of Celanese Corporation, et al. v. Strange, et al., Opinion No. 20885, filed February 14, 1979, the South Carolina Supreme Court reaffirmed its interpretation of Article X, Section 1 and Section 5, of the South Carolina Constitution, and held that these sections require uniform taxation within the territory of the political subdivision imposing the tax. Hence, the fact that there are three different tax rates being applied within the District is constitutionally suspect.

Insofar as the authority of the Commission to increase the taxes is concerned, Act 622 of 1976 authorizes special purpose districts totally located within a county which were in existence prior to March 7, 1973, to annually levy taxes for maintenance and operation costs and to increase their respective millage limitations upon the written approval of the governing body of the county in which they are located. Any increase above the statutory limitation must be approved each year.

Since the Piedmont Sewer, Light & Fire District encompasses an area which includes portions of both Greenville and Anderson County and is not, therefore, totally located within a county, Act 622 of 1976 would not be applicable. The solution would be a legislative amendment to the Act creating the Piedmont Sewer, Light & Fire District authorizing them to set and/or increase the millage rate within the District.
Sincerely,

James W. Johnson, Jr.
Assistant Attorney General

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