

1980 WL 120860 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 8, 1980

*1 Honorable Jean B. Meyers
Member
House of Representatives
415 Patterson Drive
Myrtle Beach, South Carolina 29577

Dear Representative Meyers:

You have requested an opinion from this Office as to the status of the Grand Strand Water and Sewer Authority now that 'home rule' is effective in Horry County, South Carolina. I can advise you as follows:

1. It retains its authority under Act No. 337 of 1971 [57 STAT. 444 (1971)], as amended, 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.

2. If Horry County decides to diminish the service area of the authority and provide water and sewer services to any part of the County, it must first conduct a county-wide referendum on that question pursuant to Article VIII, § 16 of the South Carolina Constitution. See generally, Murphree v. Mottel, 267 S.C. 80, 226 S.E.2d 36 (1976).

3. I am enclosing a copy of an earlier opinion which discusses in general the procedures which the Horry County Council must follow in order to diminish the service area of the Authority.

With kind regards,

*2 Karen LeCraft Henderson
Senior Assistant Attorney General

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