

1980 WL 121012 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
December 29, 1980

*1 W. E. Jenkinson, III, Esquire
Attorney at Law
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Kingstree, South Carolina 29556

Dear Mr. Jenkinson:

In response to your request for an opinion from this Office as to whether or not the Williamsburg County Council is authorized to abolish the Williamsburg County Recreation Commission created by Act No. 191 of 1971, as amended, my opinion is that it is not so authorized as hereinafter discussed.

Although SECTION 3 of Act No. 283 of 1975, the 'home rule' legislation, provides that after January 1, 1980, county councils are empowered to pass ordinances in conflict with special laws (and, thus, repeal them), that provision must be read in conjunction with [Section 4-9-80, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, which provides that no additional powers are devolved upon county councils by the 'home rule' legislation with respect to special purpose districts and sets forth the procedure for abolishing special purpose districts by legislation. Inasmuch as the Williamsburg County Recreation Commission is the governing body of a special purpose district, the Williamsburg County Council cannot abolish it by ordinance under present law. Nevertheless, the South Carolina Supreme Court has declared in at least two decisions that special purpose districts are no longer to be regulated by the General Assembly but, instead, are to be regulated by county councils, despite the fact that there is currently no statutory authority for county councils to do so. *See, Torgerson v. Craver*, 267 S.C. 558, 230 S.E.2d 228 (1976); *City of North Charleston v. Cooper River Playground and Parks Commission*, 259 S.E.2d 107 (1979). Accordingly, the only way to abolish the Williamsburg County Recreation Commission at the present time would be by special act repealing the provisions of Act No. 191 of 1971, as amended, although the Supreme Court might invalidate such an act based upon its two previous opinions cited above. The fact that such an act would be 'clearing the way' for the county council to act, however, might cause the Supreme Court to uphold it if it is challenged.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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