

1977 S.C. Op. Atty. Gen. 61 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-62, 1977 WL 24404

Office of the Attorney General

State of South Carolina

Opinion No. 77-62

February 25, 1977

***1** Honorable Ralph H. Ellis

Senator

District No. 11

Post Office Box 235

Little River, South Carolina 29566

Dear Senator Ellis:

You have requested advice from this Office concerning the Grand Strand Water and Sewer District (District) created by Act No. 337 of 1971. 57 STAT. 444 (1971). Amendments to that statute were made in 1973 and 1976. See, 58 STAT. 1879 (1973); 59 STAT. 1549 (1976).

Act No. 283 of 1975, the 'home rule' legislation, expressly provides that:

(t)he provisions of this chapter shall not be construed to devolve any additional powers upon county councils with regard to . . . water and sewer authorities, . . . (which are in existence on the date one of the forms of government provided for in this chapter becomes effective in a particular county) and such political subdivisions shall continue to perform their statutory functions prescribed in laws creating such districts or authorities except as they may be modified by act of the General Assembly, . . . Section 14-3705, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). (Emphasis added.)

Thus, the provisions of Act No. 283 of 1975 do not grant county councils any authority vis a vis special purpose districts. There is some other general legislation, however, which has empowered county governing bodies to regulate special purpose districts situated within their respective counties in certain areas; e. g., any alteration of the service area of a special purpose district is determined by the county governing body by Act No. 926 of 1974; the authority to empower the commission of a special purpose district to issue bonds is vested in the county governing body by Act No. 926 and Act No. 1189 of 1974, as amended by Act No. 212 of 1975; the authority to make uniform the election dates of the members of the commissions of special purpose districts is granted to the county governing body by Act No. 234 of 1975. See, 58 STAT. 2018 (1974); 58 STAT. 2787 (1974); 59 STAT. 268 (1975); 59 STAT. 331 (1975); 59 STAT. 1659 (1976). Any other alteration in the duties, powers (other than the issuance of bonds) and responsibilities of a special purpose district commission must be done by the General Assembly and, most probably, must be done by general law. See, e. g., [Knight v. Salisbury](#), 206 S.E.2d 875 (1974); [Kleckley v. Pulliam](#), 217 S.E.2d 217 (1975). Moreover, any act which dissolves a special purpose district or absorbs its function entirely within the county government must provide that such act will be effective only upon approval of such abolition or absorption by a favorable referendum vote of a majority of the qualified electors of the district voting in such referendum. See, Section 14-3705, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). In addition, if a special purpose district is dissolved and its function is assumed by the county the county takes title to the district's property and assumes its debts and obligations to be retired by charges of assessment of taxes in those areas of the county that receive benefits from the district's facilities.

With kind regards,

***2** Karen LeCraft Henderson

Assistant Attorney General

1977 S.C. Op. Atty. Gen. 61 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-62, 1977 WL 24404

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.