

1977 WL 37275 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 21, 1977

*1 Carl L. Holloway, Jr., Esquire
Attorney at Law
1 Monckton Boulevard, Suite 201
Forest Lakes Office Park
Columbia, South Carolina 29206

Dear Mr. Holloway:

You have requested an opinion from this Office as to whether or not legislation relating to the East Richland County Public Service District (District) requires that at least one member of the District Commission be a resident of the City of Forest Acres. In my opinion, it does.

The District was originally created by Act No. 1114 of 1960 as the Jackson-Gills Creek Public Service District. 51 STAT. 2803 (1960). A 1971 amendment to that Act [57 STAT. 1672 (1971)] prescribed the following composition for the District Commission:

. . . The commission shall consist of five resident electors of the District, at least one of whom shall be a resident of each incorporated municipality now lying within the District and hereinafter electing to remain a part of said District under Section 10 hereinbelow, who shall be appointed by the Governor upon the recommendation of a majority of the County Council of Richland County. . . . [Emphasis added.]

The City of Forest Acres was included in the original District area [51 STAT. 2804 (1960)] and my understanding is that it elected to remain in the District's service area pursuant to Section 10 of Act No. 1114 of 1960. Subsequent amendments to the 1960 Act have not altered the hereinabove quoted requirement imposed by the 1971 amendment. See, 57 STAT. 3912 (1972); 58 STAT. 1497 (1973). In my opinion, therefore, the requirement that at least one member of the District Commission is to be a resident of each incorporated municipality located within the District and choosing to remain in the District (which description includes the City of Forest Acres) is still in effect.

In response to your second inquiry, the provisions of Act No. 283 of 1975, the 'home rule' legislation, have not effected any alteration in the residency requirement imposed by Act No. 825 of 1971. Cf., §§ 14-3705 and 14-3714, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). Furthermore, the provisions of Act No. 926 of 1974 have not vested in the Richland County Council the authority to nullify or repeal the 1971 residency requirement. Section 22 of Act No. 926 merely empowers a county governing body to advise the Governor of its recommendations concerning the desirability of creating a new commission or of effecting changes in the personnel of an old commission of any special purpose district whose service area has been enlarged, diminished or consolidated pursuant to the provisions of that Act.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

1977 WL 37275 (S.C.A.G.)