

1978 WL 34660 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 17, 1978

*1 Joseph H. Earle, Jr., Esquire
Greenville County Attorney
18 Beattie Place
Greenville, South Carolina 29601

Dear Mr. Earle:

In response to your request for an opinion from this Office as to whether or not the Greenville County Recreation District (District) can enter into an agreement to conduct recreation programs within the City of Greenville, which area is not within the service area of the District, my opinion is that it is not so authorized, subject to the reservation hereinafter discussed.

Section 2 of Act No. 1329 of 1968 [55 STAT. 3113 (1968)], as amended, prescribes the District's geographical area as . . . the entire geographic area of Greenville County, except those areas within the corporate limits of the cities of Greenville and Greer. 55 STAT. 3113 at 3114 (1968).

Its service area, therefore, expressly excludes the cities of Greenville and Greer. Moreover, nothing in its enabling legislation nor in any amendments thereto empowers the District to perform its functions and duties outside of its service area. For these reasons, I think that the District has not been explicitly authorized to carry out recreation programs in the City of Greenville.

Nevertheless, Article VIII, Section 13 of the South Carolina Constitution, 1895, as amended, provides that:
Any . . . political subdivision may agree with . . . any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof.

This language in and of itself appears to allow political subdivisions within the State to jointly perform functions; it has yet to be construed by the South Carolina Supreme Court, however, and so whether or not it confers upon political subdivisions a power which does not also need to be expressly provided for in their respective enabling legislation is a matter which is not free from doubt. If it is construed to authorize a political subdivision to carry out its functions in concert with another political subdivision irrespective of whether or not the entities involved possess that express authority by statute as well, then the District would be able to provide recreational programs within the City of Greenville in conjunction with that City.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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