

1979 WL 43433 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 29, 1979

*1 Steven H. Knight, Esquire
Attorney
St. Andrews Public Service District
1543 Ashley River Road
Charleston, South Carolina 29407

Dear Mr. Knight:

A question has arisen as to whether or not the St. Andrews Public Service District Commission is authorized to expend District funds to be used to oppose formally the proposed incorporation of a portion of the District's service area. In my opinion, the Commission is not so authorized.

The State and its political subdivisions are enjoined by the South Carolina Constitution of 1985, as amended, to expend public funds only for a public purpose. [S.C.CONST. art. X § 5](#). The authorities seem to agree that the expenditure of public funds to obtain or oppose legislation is unauthorized in the absence of express statutory language to the contrary. 15 McQUILLIN MUNICIPAL CORPORATIONS § 39.23 (1970). At least one court has invalidated the expenditure of public funds by a municipality to oppose legislation seeking to annex that municipality to another. [Coolidge v. Brookline, 114 Mass. 592](#); see generally, 16 McQUILLIN MUNICIPAL CORPORATIONS § 44.36 (1972). There is no statutory authority of which I am aware authorizing the Commission to use District funds to oppose the proposed incorporation of a portion of the District's service area. [Cf., Act No. 443 of 1949, as amended. 46 STAT. 1015 \(1949\)](#). Accordingly, the Commission is without authority to expend District funds for such a purpose. See also, [Paslay v. Brooks, et al., 198 S.C. 345, 17 S.E.2d 865 \(1941\)](#).

I am enclosing herewith a copy of an earlier opinion on the question of the validity of a municipality's contribution to the costs of litigation between private parties where the result affects the municipality.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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