

1978 WL 34745 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1978

*1 Honorable Marion Pinckney Carnell
Member
House of Representatives
District No. 14
Ware Shoals, South Carolina

Dear Representative Carnell:

You have requested an opinion from this Office as to the governmental provision of services of a medical nature within and immediately without the corporate limits of Ware Shoals, South Carolina. My understanding is that the creation of a 'medical services district' is being contemplated and that, because Ware Shoals is located in three (3) separate counties, a question has arisen as to the proper procedure to follow.

First, the General Assembly cannot create such a district by means of a local act because such an act would be violative of the provisions of new Article VIII of the South Carolina Constitution, 1895, as amended, proscribing laws for a specific county or for a specific municipality. See, e.g., [Knight v. Salisbury](#), 206 S.E.2d 875 (1974). The fact that such legislation would involve more than one county would not, in my opinion, bring it within the holding of [Kleckley v. Pulliam](#), 217 S.E.2d 217 (1975), so as to make it valid legislation since the [Kleckley](#) decision was based on the fact that the special purpose district involved therein (the Richland-Lexington Airport District) was one of State, rather than purely local, concern. Of course, the provision of medical services to the Ware Shoals area would not be a matter of State concern.

Second, the municipality of Ware Shoals has the authority pursuant to the provisions of Act No. 283 of 1975, the 'home rule' legislation, to establish municipal departments, offices and agencies and to prescribe their functions; accordingly, Ware Shoals can by ordinance create an agency to provide medical services (ambulance, nursing home, etc.) to the citizens of Ware Shoals. Moreover, pursuant to [Section 5-7-60, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, Ware Shoals can provide those same services in areas outside its corporate limits 'by contract with any individual, corporation, state or political subdivision or agency thereof or with the United States Government or any agency thereof.'

Finally, the three (3) counties involved can create a special tax district encompassing the Ware Shoals area pursuant to the provisions of Section 4-9-30(5)(a), (b) or (c), [CODE OF LAWS OF SOUTH CAROLINA](#), 1976. Those provisions contemplate a petition and election process [§§ 4-9-30(a) and (b)] or a petition process [§ 4-9-30(c)] before the tax district is created. Since more than one county is involved, the voters in the affected area of each county must approve the creation of such a district in that county. Moreover, before a county can create a tax district within the corporate limits of a municipality, the municipal governing body must agree thereto if such service is then being provided by the municipality or if such service has been budgeted or funds applied for by the municipality. Another alternative available at the county level is the method prescribed by [Sections 4-21-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, relating to the provision of fire, ambulance, and medical clinic services within designated areas of the county. A county can provide such services within the corporate limits of a municipality if the municipality does not choose to exclude itself from participation. [§ 4-21-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976. In addition, there is a procedure provided whereby voters can choose not to participate in the fire fighting or ambulance service phases of the services provided by the county. [§ 4-21-20, CODE OF LAWS OF SOUTH CAROLINA](#), 1976. The advantage of this last alternative is that no election is required before the services can be provided by the county, assuming that the municipality does not decline to participate.

With kind regards,

***2** Karen LeCraft Henderson
Assistant Attorney General

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