

1978 WL 34750 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 7, 1978

*1 Huger Sinkler, Esquire
Sinkler, Gibbs & Simons
Post Office Box 340
Charleston, South Carolina 29402

Dear Mr. Sinkler:

In response to your letter concerning the provisions of new Article X, Section 14(2) as they relate to the conflicting provisions of Article XVII, Section 7B, I agree that the latter provisions most probably cannot be harmonized with new Article X and perhaps need not be in view of the absence of any reference in Section 14(2) of Article X to the requirements of Section 7B of Article XVII (Section 14(2) reciting as constitutional limitations only Sections 14 and 12 of Article X) and in view of the South Carolina Supreme Court's interpretation of the old Article X, Section 6 'ordinary county purposes' restriction vis à vis the liberal provisions of new Article VIII, to wit:

... It is true that Article X (which relates to taxation) has not yet been rewritten, but it must be harmonized with Article VIII which is the latest expression of the electorate as to its will for constitutional provisions of this subject. This is not only true of Article X, but it is true of any other provision in the Constitution. Thus, the preexisting power to enact special laws under Section 11 of Article VII must give way as being in conflict with Article VIII. It is argued that under our decisions, . . . , counties could not by reason of Section 6 of Article X establish water or sewer systems. Article VIII, as already noted, expressly empowers counties to act in these areas. Quite obviously, these powers must exist despite conflicting provisions of Section 6 of Article X. [Knight v. Salisbury, 206 S.E.2d 875 at 879 \(1974\)](#). [Emphasis added.]

Similarly, Article XVII has not yet been rewritten and it should be, at least to the extent of deleting Section 7B. I do not think that [Sections 5-21-250 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976](#), need to be amended (since Section 5.2 of Act No. 125 of 1977 nullifies the petition and election requirements contained therein) so much as Section 5.1 of Act No. 125 needs to be amended by deleting the phrase 'or any other provision.' Unless there is some applicable constitutional provision in addition to Section 7B of Article XVII, that language should be omitted because it implies that Article XVII, Section 7B requirements must still be met.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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