

1978 WL 34902 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 8, 1978

*1 Mr. Robert Pelham
Chairman
St. Johns Fire District Commission
Post Office Box 56
Johns Island, South Carolina 29455

Dear Mr. Pelham:

You requested an opinion as to the constitutionality of House Bill 4008, which you described in your letter of May 4, 1978, as providing for the election rather than appointment of Commissioners of the St. Johns Fire District. Legislation of this sort appears proper under the Home Rule Act of 1975. The Act indicates that the General Assembly has not given up its control in general over existing special purpose districts by enacting the Home Rule Act. [§ 4-9-170, S.C. CODE](#), 1976. Furthermore, it provides that the functions of a special purpose district created prior to March 7, 1973, may be modified by an act of the General Assembly. [§ 4-9-90, S.C. CODE](#), 1976. Thus, the Home Rule Act appears to contemplate that the General Assembly may enact special legislation for certain special purpose districts. St. Johns Fire District was created prior to 1973, and is, therefore, a special purpose district over which the General Assembly has retained the authority under the Home Rule Act to enact local legislation.

You asked, however, whether or not this proposed special legislation would violate [Article VIII, Section 7 of the State Constitution](#). The South Carolina Supreme Court has not yet applied that section of the Constitution to those parts of the Home Rule Act which seems to permit this special legislation. It is clearly unconstitutional for the legislature to create new special purpose districts within a county after the date of the Home Rule Amendment to the Constitution or to enact special legislation with respect to them. [Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 \(1974\)](#). However, the Court has not yet ruled on the constitutionality of special legislation with respect to those districts created prior to the date of the constitutional amendment. Therefore, this office could not say whether or not the Bill concerning the St. Johns Fire District would be unconstitutional if enacted.

Sincerely yours,

David C. Eckstrom
Staff Attorney

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