

1975 WL 28981 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 3, 1975

*1 C. W. F. Spencer, Jr., Esquire
City Attorney
P. O. Box 790
Rock Hill, South Carolina 29730

Dear Mr. Spencer:

You have requested an opinion as to the scope of Act No. 1207 of 1974 [58 STAT. Act No. 1207 at 2813 (1974)] in view of the inconsistency in language between the title and the body of the Act.

The title of Act No. 1207 recites in part:

An Act To Authorize Incorporated Municipalities With A Population Of More Than Thirty-Five Thousand To Establish Special Improvement Districts; . . . [Emphasis added.]

Section 1 of the Act, however, provides that:

. . . any municipal corporation of this State is hereby authorized to exercise the powers and provisions hereof. [Emphasis added.]

Section 15 of the Act, moreover, provides that:

Nothing contained herein shall be construed to limit or restrict the powers of any incorporated municipality . . . [Emphasis added.]

The law is well established that when an ambiguity or inconsistency exists within the provisions of an act, resort may be had to extrinsic aids to determine the meaning of the statute. 2A SUTHERLAND STATUTORY CONSTRUCTION § 48.01 (4th ed. 1973). One extrinsic aid source is the history of the enactment process. Ibid. § 48.04. In that regard, I have enclosed a copy of an amendment to Act S-417, ratified as Act No. 1207 of 1974, which amendment was subsequently approved. That amendment provides, in part:

Amend the title by striking beginning on line one 'WITH A POPULATION OF MORE THAN THIRTY-FIVE THOUSAND.'

The above-quoted part of the amendment was inadvertently disregarded when the Act was placed in the 1974 Acts and Joint Resolutions; accordingly, our opinion is that, inasmuch as the intended scope of the Act can be determined from a study of the legislative history of the Act and, further, inasmuch as the inconsistency between the title and the body of the Act is a result of a clerical error [cf., Ibid. § 47.37], the provisions of Act No. 1207 of 1974 apply to all incorporated municipalities in South Carolina, regardless of population.

With kindest regards,

Karen LeCraft Henderson

Assistant Attorney General

1975 WL 28981 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.