

1975 WL 29336 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 22, 1975

*1 Robert L. Hawthorne, Jr., Esquire
200 E. Pinckney Street
Abbeville, SC 29620

Dear Mr. Hawthorne:

You have requested an opinion as to the method by which Section 3 of Act No. 1675 of 1972, which provides for the membership of the Donalds-Due West Water and Sewer Authority, can be amended.

Inasmuch as the Abbeville Board of Commissioners is the governing body of a political subdivision of this State, it possesses only those powers which are either expressly granted or necessarily implied. See, 81 CJS States § 58 at 997-8, 1967 OPS. ATTY. GEN. No. 2213 at 7. Act No. 32 of 1973 established the Abbeville Board of Commissioners; nowhere in that legislation is there any language either expressly or impliedly granting to the Board any authority relative to the Donalds-Due West Water and Sewer Authority. This result will still obtain, in fact, even after the provisions of Act No. 283 of 1975, the 'home rule' legislation become operative since Section 14-3705 of that Act expressly provides:

The provisions of this chapter shall not be construed to devolve any additional powers upon county councils with regard to public service districts, special purpose districts, water and sewer authorities, or other political subdivisions by whatever name designated, (which are in existence on the date one of the forms of government provided for in this chapter becomes effective in a particular county) and such political subdivisions shall continue to perform their statutory functions prescribed in laws creating such district or districts except as they may be modified by act of the General Assembly, . . . [Emphasis added.]

My opinion is, therefore, that any alteration in the provisions of Act No. 1675 of 1972 will have to be made by way of a statutory amendment thereto, notwithstanding the possibility that such legislation may be violative of Section 7 of Article VIII of the South Carolina Constitution. See, e.g., Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1973); but see also, Kleckley v. Pulliam, 265 S.C. 177, 217 S.E.2d 217 (1975).

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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