

1974 WL 27933 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 23, 1974

*1 Senator Allen R. Carter
P. O. Box 487
Charleston, South Carolina

Dear Senator Carter:

Mr. Francis K. Sullivan requested an opinion from this office as to the constitutionality of a 1974 Act, bearing ratification number 1091, which amends Section 3 of Act No. 1768 of 1972 by enlarging the service area of the North Charleston Sewer District.

This office must take the position that, inasmuch as the Act has been enacted, it is presumed to be constitutional. We also advise, however, that if, upon the implementation of the Act, an action were to be brought pursuant to the Declaratory Judgments Act (see, Sections 10-2001 et seq. of the South Carolina Code of Laws, 1962, as amended) the Act would, in our opinion, most probably be unconstitutional under the authority of the South Carolina Supreme Court decision in Knight v. Salisbury (Opinion filed June 17, 1974).

Mr. Sullivan also inquired as to whether Act No. 926 of 1974, which authorizes the governing bodies of all counties in the State to alter the boundaries of special purpose districts situate in those counties, provides the only method by which the North Charleston Sewer District can be enlarged.

We advise that Act No. 926 provides a means (see, Section 1 of the Act) by which the service areas of special purpose districts can be altered; furthermore, because of some degree of doubt as to the constitutionality of Act R-1091, the method by which the governing body of Charleston County can enlarge the service area of the North Charleston Sewer District would, in our opinion, be the recommended one.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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