

1973 S.C. Op. Atty. Gen. 364 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3674, 1973 WL 21125

Office of the Attorney General

State of South Carolina

Opinion No. 3674

December 17, 1973

***1 The Town of Summerville may contract to provide fire protection services outside its corporate limits to property owners in the Old Fort Fire District absent repeal of Section 47–1154.1 or enactment of another statute.**

Attorney for Town of Summerville

On March 16, 1973, the General Assembly enacted a statute which created the Old Fort Fire District in Dorchester County, South Carolina. *See* Act bearing Ratification No. 140 approved March 13, 1973. Section 47–1154.1 of the South Carolina Code of Laws authorizes the Town of Summerville, which is a municipality that had between 3,000 and 3,500 persons according to the 1950 census, to contract for and furnish fire protection to properties situated outside of and beyond its corporate limits.

In view of the 1973 statute, you inquire as to whether or not the Town may still contract with property owners outside of its territorial limits to provide them with fire protection.

Whether or not the Town may continue to provide fire protection services to the property owners in the new fire district depends upon the governing statutes. 16 *McQuillin*, MUNICIPAL CORPORATIONS § 45.02 at 569. When the General Assembly enacted the 1973 statute it did not expressly repeal Section 47–1154.1 either in whole or in part. Nor did it, in our judgment, impliedly repeal that statute. *See, State v. Hood*, 181 S. C. 488, 188 S.E. 134. Moreover, there is no language in the act creating the Old Fort Fire District from which one could reasonably conclude that the General Assembly intended that fire protection therein was to be exclusively provided by the new district. Absent the repeal of Section 47–1154.1 or the enactment of a statute requiring that fire protection services in the duplicated area be rendered exclusively by the fire district and that the Town of Summerville cease the performance of those functions, the town may continue to contract with property owners in the district to furnish them with fire protection.

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