



ALAN WILSON
ATTORNEY GENERAL

September 27, 2011

Karen Blair Manning, Esquire
South Carolina Department of Commerce
1201 Main Street
Suite 1600
Columbia, South Carolina 29201

Dear Ms. Manning:

You have requested an opinion of this Office concerning the application of section 5-31-1520 of the South Carolina Code where the City of Barnwell desires to extend its sewer line, but not its water line, to a particular property beyond its municipal boundaries.

Section 5-31-1520 concerns the extension of water and sewer systems, and it requires that “both the water and sewer systems are extended.” However—as stated in a previous opinion of this Office—“there is more than one way to extend a water or sewer system,” and there are statutory mechanisms by which a municipality may extend its sewer system without extending its water system. Letter to C. Dennis Aughtry, Esquire, Op. S.C. Att’y Gen. (Oct. 6, 1988). Thus, it appears the City would be better served by proceeding under a statute other than section 5-31-1520.

In general, section 5-7-60 of the South Carolina Code provides:

Any municipality may perform any of its functions, furnish any of its services, except services of police officers, and make charges therefor and may participate in the financing thereof in areas outside the corporate limits of such municipality by contract with any individual, corporation, state or political subdivision or agency thereof . . . subject always to the general law and Constitution of this State regarding such matters, except within a designated service area for all such services of another municipality or political subdivision, including water and sewer authorities . . . Provided, however, the limitation as to service areas of other municipalities or political subdivisions shall not apply when permission for such municipal operations is approved by the governing body of the other municipality or political subdivision concerned.

(Emphasis added).

Several articles of our Code create mechanisms by which a municipality may furnish its water and/or sewer service to property beyond its corporate boundaries. This Office reads these distinct mechanisms in

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harmony with one another. For example, section 5-31-1910 permits a city to furnish water by contract “with any person without the corporate limits . . . but contiguous thereto.” This contract must be limited to a renewable term of two years. Sections 5-31-1920 and -1930 change the time limit and eliminate the contiguity requirement of section 5-31-1910, but sections -1920 and -1930 apply only to cities of a certain minimum population. Section 5-31-1520, on the other hand, permits a city to extend its water and sewer systems to any property beyond the corporate limits, and it states neither a time limit nor a threshold population. Thus, but for the requirement that a city acting pursuant to section 5-31-1520 must extend both its water and its sewer system, section 5-31-1520 would render the time, contiguity, and population requirements of article 19 meaningless. *See* Letter to the Honorable David S. Taylor, Op. S.C. Att’y Gen. No. 1492 (Feb. 25, 1963) (attached) (construing similar provisions of the 1963 Code).

As illustrated above, the various statutory mechanisms for extending municipal water and/or sewer systems to properties beyond municipal boundaries must be read in harmony in order to avoid a statutory surplus. *See S.C. State Ports Authority v. Jasper County*, 368 S.C. 388, 398, 629 S.E.2d 624, 629 (2006) (“In construing statutory language, the statute must be read as a whole and sections which are a part of the same general statutory law must be construed together and each one given effect.”); *In re Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995) (“A statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous” (quoting 82 C.J.S. Statutes § 346)). Thus, it is the opinion of this Office that a municipality may choose freely among the available mechanisms for extending its water or sewer system, provided the municipality complies with the specific requirements of the chosen mechanism and with the general requirements found in section 5-7-60 of the South Carolina Code.

We recommend you consider section 5-31-890 as a statutory mechanism that might fit the City’s needs. This section permits a municipality that “own[s], control[s], leas[es] or plan[s] to construct a system of sewerage disposal” to contract with “persons or political subdivisions outside the corporate limits . . . whether contiguous thereto or not” in order to “furnish[] the use, benefits and facilities thereof.” A copy of this statute is attached for your further study.

Very truly yours,



Dana E. Hofferber
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General