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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

August 2, 2002

The Honorable G. Ralph Davenport, Jr.
Member, House of Representatives
105 Ashland Terrace
Boiling Springs, South Carolina 29316

**Re: Your Letter of July 15, 2002
Inman-Campobello Water District**

Dear Representative Davenport:

In your above-referenced letter, you ask this Office to "... research the Codes regarding a Special Purpose District in Spartanburg County known as the Inman-Campobello Water District to determine if qualified electors residing in the district are permitted to petition the commission for the purpose of electing members to the board." By way of background, you indicate that "[c]urrently, as stated in Act 939 of 1954, commissioners are appointed by the Governor, upon the recommendation of a majority of the Spartanburg County Legislative Delegation."

S.C. Code Ann. §6-11-350(B) provides that "[t]he qualified electors residing in a special purpose district may by petition request a referendum on the question of electing the governing body of such district by popular vote of the qualified electors in the district." The petition must be delivered to the county board of voter registration in the county in which the special purpose district is located. See S.C. Code Ann. §6-11-350(C). Then, pursuant to Section 6-11-350(D), the board of voter registration must verify the petition and, if verified, the question must be placed on the general election ballot in November of the appropriate year. If in the referendum "... a majority of electors from the special purpose district voting in the election vote in favor of the election of members of the district's governing body, the county election commission must conduct non-partisan elections ..." pursuant to S.C. Code Ann. §6-11-354.

It is apparent that State law allows for qualified electors residing in a special purpose district to initiate by petition the process whereby the governing body of the special purpose district can be selected by popular election. It now must be determined if the statutes providing for this process are applicable to the Inman-Campobello Water District. S.C. Code Ann. §6-11-350(A) sets forth the application of Article 2 of Title 6, Chapter 11 (Referendum Concerning Whether a Special Purpose District's Board Should Be Elected) and states, in pertinent part, as follows:

For the purposes of this article, "special purpose district" or "district" means any district, including a public service district, created by or pursuant to an act of the General Assembly before March 7, 1973, and to which has been committed before March 7, 1973, any governmental function, including those districts created by special legislation

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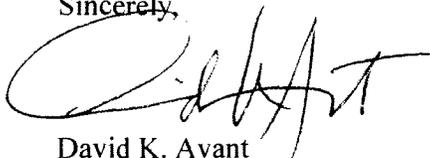
and those districts created by referenda held pursuant to general legislation. This article applies only to those special purpose districts, the governing bodies of which were not, as of January 1, 1997, elected directly by the qualified electors residing in the district. This article does not apply to (1) any special purpose district, the boundaries of which include areas within more than one county, or (2) any special purpose district which, as of April 1, 1998, pursuant to written contract provided one or more of its authorized services to areas outside the State ...

The Inman-Campobello Water District was created by the General Assembly when it passed Act 939 of 1954. The effective date of Act 939 was April 23, 1954. The powers and duties of the district are found in Section 3, subsections 1 - 23 of the Act and include, but are not limited to, the power to construct and operate water and sewer systems, prescribe regulations for water and sewer use, acquire real and personal property, exercise eminent domain, borrow money and issue bonds. As you note, the initial selection of district commissioners required appointment by the Governor upon recommendation of the Spartanburg County Legislative Delegation. The same method of selection, gubernatorial appointment after recommendation of the legislative delegation, is also mandated for filing expired terms of office and vacancies which may occur during a commissioner's term of office. Currently, no provision of Act 939 allows for a popular election of district commissioners. According to Section 1 of Act 939, the territory of the Inman-Campobello Water District appears to be located solely within Spartanburg County. Further, this Office has been advised of no written contracts which allow for the District to provide its services to areas outside of the State.

Given the nature and date of its creation, the manner of selecting its governing body, the functions it performs, its location and assuming the existence of no contracts allowing its services to be provided out-of-state, it is my opinion that the provisions of Section 6-11-350 apply to the Inman-Campobello Water District. Therefore, it is my opinion that the qualified electors of the District may request by petition a referendum on the question of electing the commissioners of the Inman-Campobello Water District by popular election. Any such petition should be presented to the Spartanburg County board of voter registration for verification.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General and not officially published in the manner of a formal opinion.

Sincerely,



David K. Avant
Assistant Attorney General

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