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**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

August 5, 1999

Mr. George L. Schroeder, Director  
Legislative Audit Council  
400 Gervais Street  
Columbia, South Carolina 29201

**RE: Informal Opinion**

Dear Mr. Schroeder:

Attorney General Condon has forwarded your recent opinion request to me for reply. You have informed this Office that the Legislative Audit Council (hereinafter "LAC") has received a request to audit the Georgetown County Water and Sewer District (hereinafter "GCWSD"). You have asked whether the LAC has the authority to conduct audits of special purpose districts. You also ask whether the LAC may accept the request to audit the GCWSD.

The LAC's authority is codified at S.C. Code Ann. § 2-15-10 *et seq.* The LAC is directly responsible to the General Assembly and is independent of any other state agency, board or department. Among the duties of the LAC is "[t]o establish a system of post audits for all fiscal matters and financial transactions for all state agencies of the state government." S.C. Code Ann. § 2-15-60(d). Section 2-15-50 defines "state" agencies as

... all officers, departments, boards, commissions, institutions, universities, colleges, bodies politic and corporate of the State and any other person or any other administrative unit of state government or corporate outgrowth of state government, expending or encumbering state funds by virtue of an appropriation from the General Assembly, or handling money on behalf of the State, or holding any trust funds from any source

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derived, but does not mean or include counties.

An "audit" is defined by Section 2-15-50 as

... a full-scope examination of and investigation into all state agency matters necessary to make a determination of:

- (a) (1) whether the entity is acquiring, protecting, and using its resources, such as personnel, property, and space, economically and efficiently;
- (2) the causes of inefficiencies or uneconomical practices; and
- (3) whether the entity has complied with laws and regulations concerning matters of economy and efficiency; and
- (b) (1) the extent to which the desired results or benefits established by the General Assembly or other authorizing body are achieved;
- (2) the effectiveness of organizations, programs, activities, or functions; and
- (3) whether the entity has complied with laws and regulations applicable to the program.

The issue you present is, therefore, whether the GCWSD would be considered a "state" agency for purposes of Section 2-15-50.

The GCWSD is a special purpose district, located wholly within Georgetown County. Ex Parte Georgetown County Water and Sewer District, 284 S.C. 466, 327 S.E.2d 654 (1985). This Office has previously addressed the question of whether the LAC possesses the power to audit a special purpose district. In an opinion dated June 2, 1976, we found that a special purpose district was not a "state" department, agency, or institution, for purposes of the LAC's authority. Accordingly, the LAC did not possess the power to audit the Western Carolina Sewer Authority. While this opinion is over twenty years old, the

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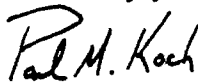
statutory definition of "state" agency has not changed significantly since the time it was written. Therefore, the conclusion reached therein is still applicable today.<sup>1</sup>

Based on the foregoing, it does not appear that a special purpose district falls within the definition of "state" agency found in Section 2-15-50. Thus, the LAC does not possess the power to audit the GCWSD. In expressing this opinion, I make no comment as to whether an audit is warranted in this case. I am merely commenting on the LAC's authority to conduct the audit. I note that the General Assembly has provided a mechanism for auditing special purpose districts. Section 6-11-1650 provides that "[e]ach special purpose district shall provide an annual financial audit performed by a certified public accountant or public accountant to the county auditor in which the district resides."

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 questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With best personal regards, I am

Sincerely yours,



Paul M. Koch  
Assistant Attorney General

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<sup>1</sup> Support for the conclusion reached in the 1976 opinion can also be found in an opinion dated January 30, 1986. Following a detailed examination of Section 2-15-50, this Office found "[i]n the absence of any clear legislative expression providing the authority to audit a local political subdivision, such as a school district, we are unable to suggest that the legislature intended to provide [the Legislative Audit] Council with such authority."