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Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

May 22, 1992

The Honorable Robert J. Sheheen
Speaker of the House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Speaker:

Thank you for your letter of May 18, 1992, to Attorney General Medlock, which he has referred to the Opinion Section for response. Referencing 1967-68 Op. Atty. Gen. No. 2455, you have asked about the procedure to dissolve a rural water district in South Carolina.

The referenced opinion was re-examined in an opinion of our Office dated March 30, 1987, taking the "home rule" constitutional provisions into account. We upheld the earlier opinion as being "not clearly erroneous" with the exception of the suggestion that special legislation would be required to dissolve or terminate such a district, given the subsequent general constitutional proscriptions against local legislation. Since the second opinion was rendered, there have been no statutory modifications which would cause the conclusion of either opinion to change. A copy of the 1987 opinion is enclosed herewith.

Upon reflection, it might be possible to attempt to use the mechanism in S.C. Code Ann. § 4-9-80 to dissolve a rural community water district created pursuant to § 6-13-10 et seq. if such district is deemed to be a special purpose district in existence when home rule became effective in the county and the function of the district is to be absorbed entirely within the county government. (We note that for purposes of § 6-11-1610 et seq., rural community water districts are considered special purpose districts.) In an appropriate instance, following the procedure of § 4-9-80 is not without difficulty, since the required act of the General Assembly to finalize the dissolution could well be violative of Art. VIII, § 7 of the state Constitution if the

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district is located wholly within one county. Spartanburg Sanitary Sewer District v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984).

For those rural community water districts located wholly within one county, deemed to be special purpose districts in existence when home rule became effective in a county, the functions of which are not to be absorbed by a county government, the preferable means of dissolution, to avoid constitutional difficulty, would be by a general law adopted by the General Assembly. And, to remove all doubt as to whether rural community water districts created by authority of present § 6-13-10 et seq. were among the districts to which § 4-9-80 is to apply, legislative clarification would be helpful.

We hope that the foregoing and the enclosed 1987 opinion will be responsive to your inquiry. If you require clarification or have questions pertaining to a specific situation, please let us know.


With kindest regards, I am

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP:sds
Enclosure

REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions