

# The State of South Carolina



## Office of the Attorney General

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October 18, 1988

John P. Mann, Esquire  
Mauldin City Attorney  
The Daniel Building  
Greenville, South Carolina 29602

Dear Mr. Mann:

By your letter of September 14, 1988, you have inquired as to the authority and the process to be utilized in removing the City of Mauldin from the Greenville County Recreation District should such removal be desired: whether the authority to remove Mauldin from the District vests in the Greenville County Council or the General Assembly, or both, is the particular issue to be addressed. We concur with your conclusion that Section 6-11-410 et seq., South Carolina Code of Laws (1976), addresses the question, as discussed more fully below.

The Greenville County Recreation District was created by Act No. 1329, 1968 Acts and Joint Resolutions, dated June 24, 1968. Subsequent amendatory acts included Act No. 17 of 1969; Act No. 55 of 1969; Act No. 1255 of 1970; Act No. 1257 of 1970; Act No. 1417 of 1970; Act No. 313 of 1971; Act No. 1598 of 1972; and Act No. 472 of 1973. Section 8 of Act No. 1329 of 1968 provided that any incorporated municipality of Greenville County except Greenville, Fountain Inn, and Greer, could exclude itself from the District by notifying the Greenville County Recreation Commission of its desire to be excluded prior to January 1, 1969; a means to rejoin the District was also provided. Section 1 of Act No. 313 of 1971 added the municipality of Fountain Inn to the geographic area to be served by the District. Otherwise, the diminution or other change of boundaries was not addressed by the General Assembly in local acts relating to the District. Thus, it becomes necessary to examine general law relative to changing boundaries of such districts.

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Section 6-11-410 et seq. of the Code provides a mechanism to enlarge, diminish, or consolidate any existing special purpose districts, by action of a county council, for such districts located within that county. A "special purpose district" is defined in Section 6-11-410(a) to be

any district created by act of the General Assembly prior to March 7, 1973, and to which has been committed prior to March 7, 1973, any local governmental function.

In the legislative findings of Act No. 926 of 1974, which added Section 6-11-410 et seq. to the Code of Laws, certain local governmental functions were identified: water, sewer, fire protection, garbage disposal, hospital, recreation, and educational services. It was further noted that subsequent to the adoption of Article VIII, Section 7 of the State Constitution, the General Assembly's power to enact laws to enlarge or diminish special purpose districts' boundaries were questionable. Thus, Section 6-11-410 et seq. was adopted to permit a county council to do what the General Assembly was no longer empowered to do by the State Constitution.

Clearly, the Greenville County Recreation District was created by the General Assembly prior to March 7, 1973. See Act No. 1329 of 1968. The following duties assigned to the governing body of the District by the General Assembly equally clearly reflect a local governmental function:

The commission shall develop plans for recreation services and facilities for the district and a financial program to implement such plans. The Commission shall work with civic groups and school officials to provide supervised recreation in areas not now served and seek land acquisition and development funds through existing federal and state agencies.

Thus, it is apparent that the Greenville County Recreation District would fall within the definition of "special purpose district" as defined by Section 6-11-410(a); the District's boundaries would be subject to change by Greenville County Council following the procedure set forth in Section 6-11-430 et seq.

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Article VIII, Section 7 of the State Constitution provides that after March 7, 1973, "[n]o laws for a specific county shall be enacted." Local laws for special purpose districts enacted after the adoption of Article VIII, Section 7 have been overturned as violative of that constitutional provision in cases such as Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976); Cooper River Parks and Playground Commission v. City of North Charleston, 273 S.C. 639, 259 S.E.2d 107 (1979); and Richardson v. McCutchen, 278 S.C. 117, 292 S.E.2d 787 (1982). For this reason, it is our opinion that the General Assembly would not be the appropriate entity to change the boundaries of a special purpose district located wholly within Greenville County.

In conclusion, we concur that the Greenville County Council would be the appropriate legislative body to change the boundaries of the Greenville County Recreation District, to exclude the City of Mauldin if such should be desired, following Section 6-11-410 et seq. of the Code.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP:sds

REVIEWED AND APPROVED BY:

*Robert D. Cook*  
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