

1984 WL 249809 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

**January 18, 1984**

\*1 The Honorable Joseph F. Anderson, Jr.  
Member  
House of Representatives  
Post Office Box 507  
Edgefield, South Carolina 29824

Dear Representative Anderson:

Attorney General Medlock has referred your letter of October 11, 1983, concerning the Edgefield County Water and Sewer Authority (ECW&SA) to me for response. By your letter, you have asked whether legislation to be introduced concerning the ECW&SA would violate [Article VIII, Section 7 of the Constitution of the State of South Carolina](#), as a special act. It is our opinion that such proposed legislation probably would violate the Constitution, but this conclusion is not free from doubt.

The ECW&SA was created to serve a multi-county district. See Section 2 of Act No. 1192, 1970 Acts and Joint Resolutions, amending Section 6 of Act No. 571, 1967 Acts and Joint Resolutions. Prior Opinions of this Office, addressing the constitutionality of legislation pertaining to special purpose districts involving more than one county, have said that such legislation would be constitutionally permissible, see Opinion dated May 4, 1983, and violative of the Constitution, see Opinion dated June 16, 1983. Several attorneys within the Office of the Attorney General have conferred on the matter, and we believe the latter Opinion is most probably the correct statement of the law.

The only guidance which we have at present from the South Carolina Supreme Court is in the form of two cases: [Kleckley v. Pulliam](#), 265 S.C. 177, 217 S.E. 2d 217 (1975) and [Torgerson v. Craver](#), 267 S.C. 558, 230 S.E. 2d 228 (1976). It is certainly possible that if the Supreme Court were faced with the issue presented by your inquiry, the Court would go with [Kleckley](#) and hold such legislation constitutional. We think, however, that the emphasis should be on the purpose of the district and not on geography, but we cannot second-guess the decisions of the courts of this State.

We would recommend that judicial clarification of the issue be sought, or that corrective legislation be introduced to clarify what may be done to harmonize both the Constitution and Home Rule legislation.

Sincerely,

Patricia D. Petway  
Staff Attorney

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