

1984 WL 249876 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 1, 1984

*1 The Honorable Grady L. Patterson, Jr.
State Treasurer
Post Office Box 11778
Columbia, South Carolina 29211

Dear Mr. Patterson:

Attorney General Medlock has referred your letter of March 30, 1984, to me for response. You have asked whether Section 2 of Act No. 65, 1983 Acts and Joint Resolutions, would be applicable to Fort Hill Natural Gas Authority. For the reasons stated below, we advise that Section 2 of Act No. 65 would not be so applicable.

Section 2 of Act No. 65, codified as [Section 6-11-300, CODE OF LAWS OF SOUTH CAROLINA \(1983 Cum. Supp.\)](#), provides as follows:

Any board, commission, or authority in this State, established under the provisions of Chapter 11 of Title 6 of the 1976 Code, which provides natural gas to residents of this State, shall, within thirty days of the end of the fiscal year of the board, commission, or authority, provide to the State Treasurer a detailed statement of all accounts, receipts, disbursements, and expenditures of funds by the board, commission, or authority during the preceding fiscal year. The statement shall be in such form as prescribed by the State Treasurer and shall be made available for inspection and copying to the public.

To determine the applicability of this Section to Fort Hill Natural Gas Authority, it must first be determined that the Authority was established pursuant to Chapter 11 of Title 6.

The provisions of Chapter 11 of Title 6 pertaining to creation of special purpose or public service districts, codified as Section 6-11-10, *et seq.* of the Code, were first enacted by Act No. 734, 1934 Acts and Joint Resolutions. Section 1 of that Act provides in part:

In order to protect the public health; electric lighting districts, water supply districts, fire protection districts, and sewer districts may be established as hereinafter provided . . .

An examination of the CODES OF LAWS OF SOUTH CAROLINA as re-codified in 1942, 1952, 1962, and 1976, examining in particular the statutes preceding [Section 6-11-10 of the 1976 Code](#),¹ reveals that the language of the Act has remained virtually unchanged in the fifty years since its enactment.

The title of the Act, often useful in determining the General Assembly's intent in enacting legislation, [Lindsay v. Southern Farm Bureau Casualty Insurance Company, 258 S.C. 272, 188 S.E.2d 374 \(1972\)](#), reads as follows:

AN ACT to Authorize the Establishment of Electric Lighting Districts, Water Supply Districts, Fire Protection Districts, and Sewer Districts . . . and to Authorize Such District to Issue Bonds for the Cost of Construction of Electric Lighting, Water Supply, Fire Protection, and Sewerage Plants . . . and for the Creation of Commissions for the Control and Management of Electric Lighting Districts, Water Supply Districts, Fire Protection Districts, and Sewer Districts . . .

The primary rule in construing a statute is to determine and give effect to the intent of the General Assembly. [McGlohon v. Harlan](#), 254 S.C. 207, 174 S.E.2d 753 (1970). Furthermore, language in a statute must be given its plain and ordinary meaning, absent ambiguity. [Worthington v. Belcher](#), 274 S.C. 366, 264 S.E.2d 148 (1980). Considering the title of the Act and the virtually unchanged language in the Act now codified as [Section 6-11-10 of the 1976 Code](#), it is clear that [Section 6-11-10](#), *et seq.* refers only to electric lighting districts, water supply districts, fire protection districts, and sewer districts. Nowhere is mentioned the establishment of a district to provide natural gas to residents of this State. Where the General Assembly has apparently restricted the scope of a statute to those certain enumerated items expressly stated within the statute, all others not expressly stated are impliedly excluded. [Home Building & Loan Association v. City of Spartanburg](#), 185 S.C. 313, 194 S.E. 139 (1938). Thus, it is the opinion of this Office that a natural gas authority would not have been established under Chapter 11 of Title 6 of the Code.²

*2 The Fort Hill Natural Gas Authority was created by Act No. 799, 1952 Acts and Joint Resolutions. The Act itself does not state under what statutory or constitutional provisions the General Assembly was acting when it enacted this legislation. The General Assembly, under its plenary powers, may enact any law not specifically or impliedly prohibited by the Constitution. [Duncan v. York County](#), 267 S.C. 327, 228 S.E.2d 92 (1976). Because no constitutional provision appears to prohibit the establishment of such an authority, we believe that the General Assembly was acting under its plenary power and not pursuant to the predecessors of [Section 6-11-10](#) when it created the Fort Hill Natural Gas Authority. Therefore, because the Fort Hill Natural Gas Authority was not created pursuant to Chapter 11 of Title 6 (or its predecessor statutes), Section 2 of Act No. 65 ([Section 6-11-300](#)), *supra*, would not be applicable to that Authority.

We hope that the above discussion satisfactorily responds to your inquiry. If you need additional information or clarification on this matter, please advise us.

Sincerely,

Patricia D. Petway
Staff Attorney

Footnotes

- [Section 6-11-10](#) states:
In order to protect the public health, lighting districts, water supply districts, fire protection districts and sewer districts may be established as herein provided for the purpose of supplying lights and water and providing fire protection, a sewerage collection system and a sewage treatment plant to a portion of any county in this State which is not included in any incorporated city or town.
- The listing of the related local laws following [Section 6-11-10](#) does not contain any local laws relative to a natural gas authority, further suggesting that Chapter 11 of Title 6 has not authorized the establishment of such authorities.

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