

1982 WL 189344 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 22, 1982

*1 Honorable Harriet H. Keyserling
Member
House of Representatives
330-B Blatt Building
Columbia, South Carolina 29211

Dear Representative Keyserling:

In response to your request for an opinion from this Office regarding the proposed consolidation of the Beaufort-Jasper County Water Authority and the Jasper County Water & Sewer Authority, my opinion is that there is currently no express statutory method by which special purpose districts located in more than one county can consolidate. Assuming without concluding that the provisions of [Sections 6-11-410 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended, apply to alterations in multi-county special purpose districts as well as single county districts, [Section 6-11-610, CODE OF LAWS OF SOUTH CAROLINA, 1976 \(Cum.Supp.\)](#), specifies that the members of the consolidated special purpose district commission are to be selected 'in the manner in which the members of the Commission of any petitioning special purpose district have heretofore been selected;' in other words, they are to be selected as the members of either the Beaufort-Jasper County Water Authority or the Jasper County Water & Sewer Authority are currently selected. If a method of selection other than one of the two authorized ones has been used, the members are most probably *de facto* public officers whose acts cannot be challenged on the basis of their invalid method of selection. See, e.g., [State, ex rel. McLeod v. Court of Probate of Colleton County \(Supplemental Opinion\)](#), 266 S.C. 300 (1976). If they have been selected in an unauthorized manner, the commissions and county councils involved should take action to comply with [Section 6-11-610 of the Code](#).

Finally, because there is no express statutory method by which multi-county special purpose districts can consolidate, there is no prescribed way to determine the number of members of the consolidated commission from each county. In my opinion, a decision which considers the proportion of the property of each county included in the consolidated district to the proportionate number of commission members of the consolidated district would be a fair one.

With kind regards,

Karen LeCraft Henderson
Deputy Attorney General

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