

1977 S.C. Op. Atty. Gen. 136 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-173, 1977 WL 24515

Office of the Attorney General

State of South Carolina

Opinion No. 77-173

June 3, 1977

*1 Roger W. Mudd

Department of Soil & Resource Development

2221 Devine Street—Suite 222

Columbia, South Carolina 29205

Dear Mr. Mudd:

In response to your request for an opinion from this Office as to whether or not a county governing body is authorized to create a watershed conservation district with taxing authority, my opinion is that, pursuant to Section 14–3703(5), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), the county governing body is so authorized. That provision allows county governing bodies to create special tax districts within the county (and less than county-wide if desirable) to provide a variety of services and to tax only those areas of the county that receive the services. Such a district, however, is, in effect, an agent of the county so that the taxing authority belongs to the county to be exercised by the district as its agent. Also, before such a district can be created, one of three procedures involving either elections or petitions must be completed. Section 14–3703(5) sets out those procedures and I am herewith enclosing a copy of that provision for your information.

I am also enclosing herewith a copy of the 1967 legislation which you mentioned to me on the telephone. Act No. 613 of 1967 [55 STAT. 1158 (1967)] authorizes the creation of watershed conservation districts but not as a county function; that is, such districts are autonomous political subdivisions of the State.

Although Section 14–3703(5) does not expressly include a watershed district among those that can be created by the county governing body, it does include ‘water treatment and distribution’ and provides further that those services specifically included are not the only ones which the county can provide. Moreover, the language in Section 14–3703(17), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), indicates that such a tax district can be formed by the county, to wit: . . . The governing body of any county shall not create a special tax district, other than watershed district, any portion of which falls within the corporate boundaries of a municipality, except upon the concurrence of the governing body of the municipality. [Emphasis added.]

With kind regards,

Karen LeCraft Henderson

Assistant Attorney General

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