

1979 WL 42990 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 14, 1979

\*1 Robert L. White  
Chief  
Piedmont Park Fire Department  
Route 5, State Park Road  
Greenville, South Carolina 29609

Dear Chief White:

You have requested an opinion as to whether or not two industrial areas included within the Piedmont Park Fire District (District) should continue to be included therein in view of the South Carolina Supreme Court's holding in [Celanese Corporation, et al v. Strange, et al.](#), 272 S.C. 399, 252 S.E.2d 137 (1979). In my opinion, they continue to be part of the District as hereinafter discussed.

The District was originally created by Act No. 156 of 1963. 53 STAT. 166 (1963). In 1970, an additional area embracing two industrial areas was added to the District [56 STAT. 1981 (1970)] and, then, in 1972, legislation was enacted authorizing a reduced tax levy for the industrial subdistricts of the District. 57 STAT. 3658 (1972). As discussed in my April 18, 1979, letter to you, those provisions of the 1972 legislation which authorize a reduced tax levy for the industrial subdistricts within the District are unconstitutional under [Celanese Corporation](#). Nevertheless, in my opinion, the inclusion of those industrial subdistricts or areas within the District remains unaffected by the [Celanese Corporation](#) holding because the provisions of the 1972 legislation which are invalid are most probably severable from the remainder thereof, including the provisions which create the industrial subdistricts within the District. See, e.g., [State v. Harper](#), 251 S.C. 379, 162 S.E.2d 712 (1968). Moreover, even if the 1972 legislation in its entirety were invalid under [Celanese Corporation](#), the antecedent 1970 legislation would constitute valid statutory authority for the inclusion of the industrial areas within the District pursuant to the following rule of statutory construction:

If the amendatory act is wholly invalid, the statute sought to be amended is held to remain in full force. 1A SUTHERLAND STATUTORY CONSTRUCTION § 22.37 at 206 (4th ed. 1972).

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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