

1979 WL 43045 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 5, 1979

*1 J. D. Black
Chairman
Easley-Central Water District
Drawer C
Norris, South Carolina 29667

Dear Mr. Black:

You have requested an opinion from this Office as to whether or not Act No. 1941 of 1972 [57 STAT. 3900 (1972)] is unconstitutional under the prohibition contained in Article III, Section 34, subdivision 9, CONSTITUTION OF SOUTH CAROLINA, against the General Assembly enacting a special law where a general law can be made applicable.

An act of the General Assembly, once enacted, is generally presumed constitutional by this Office unless it appears clearly invalid on its face or unless and until determined otherwise by a court of competent jurisdiction. Act No. 1941 of 1972 does not appear to be clearly invalid on its face; indeed, it is similiar to other special acts dealing with special purpose districts.

Even if a suit were to be brought challenging the constitutionality of the act under the Uniform Declaratory Judgment Act, [Section 15-53-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, it is the opinion of this Office that the statute appears to be a constitutionally sound exercise of the General Assembly's power to enact certain special legislation dealing with municipal governments. *See*, generally, [Ruggles v. Padgett](#), 240 S.C. 494, 126 S.E.2d 556 (1962).

[Article VII, sec. 11, of the Constitution](#) formerly authorized the General Assembly to enact special legislation for 'municipal governments.' The term 'municipal governments' as used in the Article has been interpreted to include special service districts. [Mills Mill v. Hawkins](#), 232 S.C. 515, 103 S.E.2d 14 (1957), appeal dismissed 355 U.S. 605; [Distin v. Bolding](#), 240 S.C. 545, 126 S.E.2d 649 (1962). While [Art. VII, sec. 11](#), has been superseded in part by [Art. VIII, section 7](#), which was ratified in 1973 and forbids special legislation for local government as part of the establishment of 'home rule', the provisions of [Art. VIII, section 7](#) have no application retroactively; the prohibition contained therein is inoperative as to legislation enacted prior to March 7, 1973. [Neel v. Shealy](#), 261 S.C. 266, 199 S.E.2d 542 (1973). Act No. 1941 of 1972 was enacted by the General Assembly on the 14th day of July, 1972, and was approved by the governor on July 17th of the same year, and thus is not affected by that section.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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