

1979 S.C. Op. Atty. Gen. 210 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-131, 1979 WL 29133

Office of the Attorney General

State of South Carolina

Opinion No. 79-131

November 21, 1979

**\*1 SUBJECT: Sewer Assessments**

(1) A special purpose or public service district has authority granted by the General Assembly and [§ 6-11-1210, Code of Laws of South Carolina](#), 1976, as amended, to provide by resolution that the costs of establishing sewer collection facilities shall be met by levying front-foot assessments and such district is not required to hold a referendum to take such action.

(2) If a front-foot assessment is levied on a lot or parcel of land and the sewer service charges representing such assessment are not paid, such charges become a lien upon the property to which such charges relate and may be collected in the same manner as unpaid property taxes.

TO: Honorable T. Ed Garrison  
Senator  
Senatorial District No. 1

**QUESTIONS:**

(1) Are special purpose or public service districts required to hold referendums before levying front-foot assessments to finance sewer collection facilities?

(2) If a front-foot assessment is levied on a lot or parcel of land for installation or extension of a sewer system, what is the result if such assessment is not paid?

**APPLICABLE LAW:**

Act No. 1101, Acts of [1950, Sections 6-11-1210](#) through [6-11-1240](#), Code of Laws of South Carolina, 1976, as amended.

**DISCUSSION:**

The Homeland Park Water and Sewage District was created by the General Assembly for the purpose of providing necessary and adequate sewage lines, disposal plants, water lines and drainage facilities and granted 'all power and authority necessary for carrying on any business within the purview of the Act' creating such district. Act 1101, Acts and Joint Resolutions of South Carolina, 1950. Under [§ 6-11-1210, South Carolina Code](#), the General Assembly granted additional powers to the commissions of such districts to provide for the establishment of appropriate facilities for the collection, disposal and treatment of sewage. Section 6-11-1220 defines 'commission' to mean the governing agency of any district.

Under § 6-11-1230 the commission is empowered:

'(4) To provide by resolution that the actual cost of the establishment and construction of any sewer lateral collection lines hereafter constructed by the commission and any extensions thereof within the district, or so much of the actual cost

thereof as the commission in its discretion deems appropriate, shall be assessed \* \* \* upon the lots and parcels of land abutting directly on such lateral lines or extensions thereof according to the extent of the respective frontage thereon, by an equal rate per foot of such frontage \* \* \*.' (Emphasis added)

This language allows the commission to levy, by resolution only, a front-foot assessment against the land abutting such sewer lines, and the owner of such land would be responsible for payment of the sewer charges representing the assessment.

After construction of the sewer laterals or extension, the commission is required to serve notice on affected property owners of a meeting to be held, ten days after such notice is served, at which time such owners may object to the front-foot assessments. This notice shall also state that the amount assessed shall constitute a lien upon the property superior to all other liens except property taxes. Any property owner who desires to object must file a written objection with the commission not later than three days prior to the meeting or be deemed to have waived his objection. Section 6-11-1230(4)(b) through (d).

\*2 The notice requirement in § 6-11-1230(4), supra, regarding front-foot assessments should be read in conjunction with the notice requirement set forth in § 6-11-1230(1) which states basically that prior to the imposition of a sewer service charge which shall, pursuant to § 6-11-1240, become a lien on the property affected, not less than ten days written notice shall be given to each affected property owner. Such property owner is entitled to a hearing on the service charges.

Section 6-11-1240 states that:

'\* \* \* all sewer service charges imposed by the commission \* \* \* and not paid when due and payable shall be and constitute a lien upon the real estate to which the sewage service concerned relates so long as the sewer service charges remain unpaid. \* \* \* the lien may be enforced by the commission in the same manner and fashion as the lien of property taxes on real estate. The lien herein provided shall be superior to all other liens except liens for unpaid property taxes.'

#### CONCLUSION:

(1) A special purpose or public service district has authority granted by the General Assembly and § 6-11-1210, *Code of Laws of South Carolina*, 1976, as amended, to provide by resolution that the costs of establishing sewer collection facilities shall be met by levying front-foot assessments and such district is not required to hold a referendum to take such action.

(2) If a front-foot assessment is levied on a lot or parcel of land and the sewer service charges representing such assessment are not paid, such charges become a lien upon the property to which such charges relate and may be collected in the same manner as unpaid property taxes.

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