

1976 WL 30831 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 13, 1976

*1 Peter D. Hyman, Esquire
County Attorney
Box G
City-County Complex
Florence, South Carolina 29501

Dear Mr. Hyman:

You have requested an opinion from this Office as to whether or not the Florence County Council can enact an ordinance regulating the provision of water and sewer services within Florence County, including those provided by municipalities and special purpose districts. In my opinion, it cannot regulate the provision of those services by municipalities and special purpose districts.

Section 14-3703(11), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), authorizes county governing bodies to grant franchises in areas outside municipal corporate limits in order to regulate and control services and utilities affected with the public interest; the proviso to that grant of authority, however, is that it is not to apply 'to utilities owned and operated by a municipality.' Moreover, Section 14-3705 of the Code (Cum. Supp.) provides that nothing in Act No. 283 of 1975, the 'home rule' legislation, shall:

be construed to devolve any additional powers upon county councils with regard to public service districts, special purpose districts, water and sewer authorities, . . . and such political subdivisions shall continue to perform their statutory functions prescribed in laws creating such districts or authorities . . .

The opinion of this Office is, therefore that those portions of Florence County Ordinance #3-⁷⁵/76 which attempt to regulate either municipal-owned water and sewer utilities or those same utilities which are owned and operated by a water and sewer authority are unauthorized.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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