

1976 S.C. Op. Atty. Gen. 311 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4452, 1976 WL 23069

Office of the Attorney General

State of South Carolina

Opinion No. 4452

September 20, 1976

**\*1 The South Carolina Public Service Authority is subject to the provisions of the Unclaimed Property Act; however, the Utility Department of the City of Union is excluded as a “utility” within the definition provided in Section 57–240.1(8).**

Director

Income Tax Division South Carolina Tax Commission

You have asked the following:

1. Is the utility department of the City of Union subject to the provisions of the Unclaimed Property Act?
2. Is the South Carolina Public Service Authority subject to the provisions of that Act?

The Unclaimed Property Act contained in Section 57–240.1, et seq., of the Code provides that certain funds are presumed abandoned and should be remitted to the Tax Commission as administrator of the Act. Among the funds presumed abandoned are those held by “any utility”. See Section 57–240.4. However, the definition portion of the Act states that “utility \* \* \* shall not include any utility owned and operated by an incorporated municipality or other political subdivision of this State”. The City of Union's utility is therefore specifically excluded from the definition of “utility” under Section 57–240.4 of the Code. The question remains as to whether unclaimed funds held by the City's utility division should be remitted under the provisions of Section 57–240.8 which apply to unclaimed funds “held for the owner by any court, public corporation, public authority or public officer of this State, or any political subdivision thereof”.

If a subject is specifically excluded from one portion of the Unclaimed Property Act, it is doubtful that it was intended to be included under a more general provision. See 73 Am.Jur.2d, Statutes, Section 257.

Because the utility department of the City of Union is clearly specifically excluded from coverage under Section 57–240.4, we have concluded that it is not included under the more general provisions of Section 57–240.8 of the Code which has general application to public corporations.

With regard to the South Carolina Public Service Authority, it is first necessary to determine whether or not it is specifically exempted from application of the Act. Section 57–240.1(8) states that “utility” does not include “any utility owned and operated by an incorporated municipality or other political subdivision of this State”. The rule of ejusdem generis limits general terms which follow specific ones to matters similar to those specified. See 73 Am.Jur.2d, Statutes, Section 214; [Cooper River Bridge, Inc. v. South Carolina Tax Commission](#), 182 S.C. 72, 188 S.E. 508 and 14 Words and Phrases at 191.

Under the rule of ejusdem generis, by using the term “incorporated municipality” the Legislature has expressed its intention to limit the scope of the more general term “or other political subdivision” to political subdivisions which are in the nature of a city. The South Carolina Public Service Authority is not similar to a city. We have, therefore, concluded that it is not specifically excluded from the definition of “utility” as defined in Section 57–240.1(8) of the Code. We are, however, not of the opinion that the Public Service Authority is covered by Section 57–240.4 of the Code which applies to utilities generally. We believe instead that the Public Service Authority is covered by the provisions of Section 57–240.8

of the Code which apply to unclaimed funds “held for the owner by any court, public corporation, public authority, or public officer of this State, or any political subdivision thereof \* \* \*.” (Emphasis added) The fact that the Legislature has specifically included public authorities under this provision lends weight to our conclusion that it did not intend to exclude them under the provisions of Section 57–240.1(8) of the Code.

\*2 Finally, statutory construction favors the inclusion of the Public Service Authority under the provisions of Section 57–240.8 because of the rule favoring that provision which appears last in position in the statute. See 73 Am.Jur.2d, Statutes, Section 256.

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