

1975 WL 29698 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 11, 1975

*1 Honorable Lloyd Hunt
Representative
Greenville County
110 Oakdale Avenue
Greer, South Carolina

Dear Representative Hunt:

You have requested an opinion from this office as to proposed legislation regarding the Western Carolina Regional Sewer Authority. That proposal intends, *inter alia*, to absorb the Metropolitan Sewer Sub-District and to take over the functions of that sub-district.

Our opinion is that an attempt to so consolidate the Authority and the Sub-District by legislation would be violative of Article VIII of the South Carolina Constitution of 1895 as interpreted by the State Supreme Court in [Knight v. Salisbury](#), 262 S.C. 565, 206 S.E.2d 875 (1974).

The General Assembly did, however, enact a general law empowering the governing bodies of South Carolina's counties to diminish, enlarge or consolidate existing special purpose districts located within the respective county. *See*, 58 STAT. 2018 (1974). The Greenville County Council can, therefore, consolidate the Western Carolina Regional Sewer Authority and the Metropolitan Sewer Sub-District pursuant to the provisions of that general law. Section 4 thereof requires a public hearing to be held before the governing body can so act, regardless of whether the consolidation is by its own motion or upon petition of the commissioners of the Western Carolina Authority, and Section 5 thereof details the requirements of the notice of the public hearing.

Since the territory of the consolidated Western Carolina Regional Sewer Authority extends into at least three counties, the governing body of each affected county must authorize the contemplated consolidation.

You have additionally inquired whether or not the existing indebtedness, if any, of the subdistricts to be consolidated can be repaid by the taxpayers of those subdistricts only and not from a tax levied throughout the area of the consolidated Authority. In this connection, Section 23 of the aforementioned general law provides in part:
All districts modified pursuant to this act shall assume all properties and liabilities of the antecedent district.

We construe this language to mean that the consolidated Authority must assume the liabilities of the sub-districts and cannot consider those liabilities to be the responsibility of the respective sub-districts only so as to permit them to be discharged by a tax levied on the taxpayers of those subdistricts only. In order to permit such a practice, Section 23 could be amended to read as follows:

All districts modified pursuant to this Act shall assume all properties and liabilities of the antecedent district, but the county board in the proceeding providing for such modification shall have the power to provide that outstanding indebtedness of any antecedent district shall be repaid from ad valorem taxes and/or service charges collected only from property or customers, as the case may be, located within the area formerly included within such antecedent district, if the county board finds that such a provision is fair and equitable.¹

*2 I am enclosing the material which you included with your request.
With kindest regards,

Karen LeCraft Henderson
Assistant Attorney General

Footnotes

- 1 Theodore B. Guerard, Esquire, of the firm Sinkler Gibbs Simons and Guerard suggested this language in a letter to Mr. John D. Spence, Jr., dated March 12, 1975.

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