

1975 S.C. Op. Atty. Gen. 144 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4065, 1975 WL 22362

Office of the Attorney General

State of South Carolina

Opinion No. 4065

July 31, 1975

*1 A fire district created pursuant to Sections 59–601 et seq. may not provide fire protection services to individuals who reside outside the fire district even if there individuals were to enter into contracts with the fire district.

TO: Attorney
Center Fire District, Aiken County

QUESTIONS PRESENTED:

1. May a special purpose district created for fire protection provide its services to persons who reside outside it but adjacent to it?
2. May individuals contract with the district for this purpose?

STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED:

Sections 59–609 and 59–609.1, 1962 Code of Laws; Article 8, Section 13, Constitution of South Carolina.

DISCUSSION:

The Center Fire District in Aiken County was recently created by election pursuant to Sections 59–601 et seq. of the Code. The area encompassed by the fire district was formerly served by a volunteer fire company run by an eleemosynary corporation. The volunteer fire company also served some persons in Edgefield County who are outside the limits of the new special purpose district. These persons wish to receive fire protection from the district, by contract if necessary.

The power of special purpose districts are limited by Section 59–609, which provides that fire protection may be provided to ‘citizens of such districts.’ The only exception to this rule is found in Section 59–609.1 which provides for services to citizens outside the districts and for the charging of rates. This section, however, only applies to counties with populations between 41,000 and 43,000 according to the 1950 census; Aiken County is not within this class.

The plain meaning of Sections 59–609 and 59–609.1 taken together is that special purpose districts may provide their services only to residents of the districts with only exception, which does not apply to Aiken County. There is, however, another means by which the services of a fire district could be offered to outside residents, and that is for the county (Edgefield in this case) to contract with the district. This procedure has been authorized by the 1973 revision of Article 8 of the Constitution; Article 8, Section 13 provides in part as follows:

‘Any county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the joint administration of any function and exercise of powers and the sharing of costs thereof.’

A special purpose district is clearly a political subdivision. Thus, if Edgefield County is willing to enter into a contract with the fire district, that procedure would be proper.

CONCLUSION:

It is thus the opinion of this Office that a fire district can provide its services to outside residents only through a contract with the county or with another political subdivision.

Kenneth P. Woodington

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