

1974 WL 27721 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 18, 1974

***1 Re: No. 55—County**

N. David Massey, Esquire
Attorney at Law
P. O. Box 1655
Spartanburg, South Carolina 29301

Dear Mr. Massey:

You have requested that we advise you, as attorney for the Spartanburg Sanitary Sewer District, regarding the authority of the District to impose a sewer service charge upon persons residing in three subdistricts which comprise part of the district.

Act No. 1503 of 1970 [see 56 STAT. Act No. 1503 at 3336 (1970)] established the Spartanburg Sanitary Sewer District. Its commission is authorized by Section 12 of that act to establish sewer service charges. That section reads in part: . . . Such . . . charges . . . shall apply to everyone located outside of Subdistricts A and B and Una Water District, who contributes sewage into the sewerage facilities of the district; provided, however, if the sewerage collection system of Subdistrict A or B or Una Water District is transferred to the district, then this provision shall be applicable to persons using the system transferred to the district. . . .

At the present time, none of the collection lines in Subdistricts A and B and the Una Water District has been transferred to the Spartanburg Sanitary Sewer District. Subdistricts A and B and the Una Water District have retained their own sewage collection systems. The district merely receives sewage from those subdistricts into its trunk lines and transports that sewage to the district's treatment facilities.

In 1973, the General Assembly enacted a statute designed to provide financial assistance to municipalities and special purpose districts which collect, treat, and dispose of sewage. See 58 STAT. Act No. 835 at 1869 (1973). Section 6 of that new statute provides in part:

All local units shall have, in addition to all other powers now or hereafter vested in them, the following powers:

. . .

(g) To impose service charges upon all persons to whom sewer services are provided. The service charges herein authorized shall be in addition to all other charges of a similar nature now or hereafter authorized by law. 58 STAT. at 1872.

The question arises as to whether or not the district may now impose a sewer service charge upon persons to whom sewer services are provided and who reside within Subdistricts A and B and the Una Water District.

In a situation such as that herein presented, where two statutes are apparently in conflict if they are susceptible of a construction that will render both operative without doing violence to either, such a construction will be given them. [State v. Hood](#), 181 S.C. 488, 188 S.E. 134; [State v. Alexander](#), 14 Rich. 247.

Here, we think, both statutes can be construed so as to render each operative. While the commission may not require residents in the three subdistricts to pay the sewer service charges authorized by Section 12 of the 1970 Act as long as those subdistricts retain their respective sewerage collection systems, the commission can impose, pursuant to Section 6 of the 1973 Act, a service charge upon the residents of those subdistricts that are provided sewer services by the district. Any charge so imposed would be in addition to all other charges of a similar nature authorized by law to be imposed upon those residents.

*2 This conclusion is premised upon our belief that the 'provision of sewer services' language used in the 1973 Act includes the reception of sewage from the subdistricts into District trunk lines to be processed by District treatment plants.

We regret that our reply was delayed; however, your letter was misplaced.

Kindest regards,

C. Tolbert Goolsby, Jr.

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