

1974 S.C. Op. Atty. Gen. 265 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3853, 1974 WL 21355

Office of the Attorney General

State of South Carolina

Opinion No. 3853

September 4, 1974

**\*1 The Charleston County Council is without authority to empower the St. Andrews Public Service District to borrow money; such authority can only be exercised by the General Assembly.**

Attorney at Law

Charleston, S. C.

You have requested an opinion from this office as to whether authorization for the St. Andrews Public Service District to borrow money can be obtained from the Charleston County Council rather than from the General Assembly.

Act No. 926 of 1974 does authorize county governing bodies to permit the commissions of special purpose districts situate therein to issue bonds and alter the boundaries of their service areas; the powers granted to the county governing bodies by this Act do not, however, expressly include the power to allow special purpose district commissions to borrow money. Moreover, courts have held that the power to borrow money is separate and distinct from the power to issue bonds. *See: 64 AM. JUR. 2d Public Securities and Obligations* § 84.

The opinion of this office is, therefore, that the Charleston County Council is without authority to empower the St. Andrews Public Service District to borrow money. That authority must come from the General Assembly and, most probably, in the form of a general law similar to Act No. 926, in view of new Article VIII of the State Constitution and the holding of the South Carolina Supreme Court in *Knight v. Salisbury* (Opinion filed June 17, 1974).

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