

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2017-CP-40-00988
Appellate Case No. 2019-00920

Don Weaver Appellant,

vs.

Recreation District, Recreation Commission of Richland County, Paul Brawley, as
Auditor of Richland County, David A. Adams as Treasurer of Richland County ... Respondents.

RECORD ON APPEAL

John E. Schmidt, III
Melissa J. Copeland
Schmidt & Copeland, LLC
1201 Main Street, Suite 1100
Columbia, SC 29201
803.748.1342
Attorneys For Appellant

William C. Dillard, Jr., Esquire
Belser & Belser
1235 Park Street, Suite 300
P.O. Box. 96
Columbia, South Carolina 29202
803.929.0096
Attorney for Respondent Recreation
Commission of Richland County

Bradley T. Farrar, Esquire
Chief Deputy County Attorney

Richland County Attorney's Office
2020 Hampton Street, Room 4018
Post Office Box 192
Columbia, South Carolina 29202
803.576.2076

Attorney for Respondents Paul Brawley, as
Auditor of Richland County, and David A.
Adams, As Treasurer of Richland County

South Carolina Attorney General
The Honorable Alan Wilson, Esquire
P.O. Box 11549
Columbia, South Carolina 29211
803.734.3970

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Civil Action No. 2017-CP-40-0988
Don Weaver,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
Recreation District, Recreation	)	
Commission of Richland County	)	
Paul Brawley, as Auditor of Richland	)	
County, David A. Adams as Treasurer	)	
of Richland County,	)	
	)	
Defendants.	)	
	)	

In this action, the plaintiff Don Weaver seeks a declaration as to the constitutional validity of Act No. 397 of 1998, and in particular Section 4 of the Act as codified at § 6-11-271 of the South Carolina Code of Laws. This matter came before the Court for a non-jury trial on October 12, 2017. Appearing on behalf of the Plaintiff were attorneys John E. Schmidt, III and Melissa J. Copeland. Appearing on behalf of the Defendant Richland County Recreation Commission were attorneys William C. Dillard, Jr. and Charles H. McDonald. Richland County attorney Bradley T. Farrar appeared on behalf of the remaining Defendants Paul Brawley and David A. Adams. For the reasons discussed below, after giving full consideration to the legal memoranda, exhibits, and arguments of counsel, the Court finds that the Plaintiff has failed to meet his burden to prove beyond a reasonable doubt that the challenged legislation violates the South Carolina Constitution.

BACKGROUND

The Recreation Commission of Richland County ("Recreation Commission") has been in existence for many decades. Act No. 873 of 1960 established the Richland County Rural

Recreation District, a body politic governed by a board of commissioners who are appointed by the Richland County Legislative Delegation. This unelected board is empowered to provide recreational facilities within the entirety of Richland County outside the city limits of Columbia. In 1969, Act No. 317 changed the name of the district to the Recreation District of Richland County, and changed the name of the appointed governing body to the Recreation Commission of Richland County. Act No. 317 also empowered the Recreation Commission to levy a property tax of up to five mills per annum within the district to fund its operations.

In 1997, the S.C. Supreme Court held that Act No. 317, by authorizing an unelected special purpose district to levy taxes, resulted in taxation without representation in violation of Article X, § 5 of the S.C. Constitution. Weaver v. Recreation Dist., 328 S.C. 83, 492 S.E.2d 79 (1997).¹ The effect of the ruling was to leave unelected special purpose districts throughout South Carolina without any mechanism to fund their operations. In its opinion, the Court acknowledged “the disruptive effect today’s holding could have on the financial operation of numerous special purpose districts, local commissions and boards throughout this state”. Id. at 87–88, 492 S.E.2d at 82. Accordingly, the Court specified that, “in order to give the General Assembly an opportunity to address this problem, we hold this decision shall be applied prospectively beginning December 31, 1999.” Id.

In response, the General Assembly passed Act No. 397 of 1998 (“the Act”) (“Exhibit C”). Section 4 of the Act directly addressed the tax revenue issue resulting from Weaver by adding § 6-11-271 to the S.C. Code of Laws. Under § 6-11-271, the General Assembly directly levied taxes for the operations of unelected special purpose districts, instead of authorizing unelected commissions to levy taxes themselves. With regard to the amount of the levy, § 6-11-

¹ The plaintiff in the case leading to the 1997 opinion is also the plaintiff in this matter.

271 provides that, beginning in fiscal year 1999 and until adjusted by procedures set forth in the statute, the levy would be equal to the millage that had been imposed in each affected special purpose district for operations and maintenance for fiscal year 1998. § 6-11-271(B)(2), (C)(2).

Approximately twenty years after the passage of the Act, Plaintiff Don Weaver, in his capacity as a resident and taxpayer of Richland County, now brings another action seeking a declaration that § 6-11-271 violates Article X, § 5 (regarding taxation without representation), Article III, § 34 (regarding special legislation) and Article VIII, § 7 (regarding county Home Rule) of the S.C. Constitution. While Weaver's argument is directed specifically at tax revenue the Recreation Commission receives through the Act, it is important to note that the Act is also a funding mechanism for numerous other unelected special purpose districts throughout South Carolina. These entities provide important services to the public they serve, including recreation, sanitary sewer infrastructure, and fire protection, among others.

**STANDARD ON CHALLENGE TO
CONSTITUTIONALITY OF A STATUTE**

"[S]tatutes are presumed constitutional, and the party challenging them must prove their infirmity beyond a reasonable doubt." Cabiness v. Town of James Island, 393 S.C. 176, 189, 712 S.E.2d 416, 423 (2011). "[I]t is a grave matter to overturn and to declare an enactment of the General Assembly to be unconstitutional." McElveen v. Stokes, 240 S.C. 1, 6, 124 S.E.2d 592, 594 (1962) (recognized as superseded on other grounds in Home Builders Ass'n of S.C. v. Sch. Dist. No. 2 of Dorchester Cty., 405 S.C. 458, 748 S.E.2d 230 (2013)).

As the S.C. Supreme Court has explained,

All presumptions are in favor of the power of that body to enact the law. All considerations involving the wisdom, the policy, or the expediency of the act are addressed exclusively to that branch of the state government. Its power to enact the law is the sole question addressed to this court. So long as doubts concerning this

power remain, it is our plain duty to resolve them in favor of the validity of the act.

Id. at 6, 124 S.E.2d at 594 (quoting Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539, 545 (1938)). An act of the General Assembly should be struck down only when it is “clearly unconstitutional, beyond a reasonable doubt”. Id.

“All sections of the Constitution must be considered together and harmonized, if possible.” Gaud v. Walker, 214 S.C. 451, 476, 53 S.E.2d 316, 327 (1949). “It is the duty of the Court to synchronize and not to nullify provisions in the Constitution.” Ruggles v. Padgett, 240 S.C. 494, 509, 126 S.E.2d 553, 560 (1962). Pursuant to Article VIII, § 17, laws concerning local government are “to be liberally construed and . . . presumed constitutional if reasonably possible.” Horry Cty. v. Cooke, 275 S.C. 19, 24, 267 S.E.2d 82, 84 (1980).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Act No. 397 does not constitute taxation without representation

Act No. 397 of 1998, which established the tax complained of in this matter, was enacted by the duly elected representatives of the Plaintiff and his fellow taxpayers. Article X, Section 5 of the South Carolina Constitution provides, in pertinent part, that “[n]o tax, subsidy or charge shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled.” S.C. Const. art. X, § 5.

The Act was not a delegation to unelected special purpose districts of the authority to levy taxes or determine tax rates but instead, by its plain language, a direct legislative creation of the tax. Campbell v. Hilton Head No. 1 Pub. Serv. Dist., 354 S.C. 190, 192, 580 S.E.2d 137, 138 (2003) (the Act “removed the taxing power from appointed bodies such as the District’s commission”); Lawyer v. Hilton Head Pub. Serv. Dist. No. 1, 220 F.3d 298, 300 (4th Cir. 2000) (“the South Carolina General Assembly passed legislation that took all discretionary taxing

power out of the hands of appointed bodies such as the District's governing board . . . In its place, the General Assembly exercises its own taxing power to finance the operations of such entities.”). Accordingly, Weaver’s argument regarding “taxation without representation” turns on the issue of whether the General Assembly qualifies as a body of “representatives lawfully assembled”.

As the S.C. Supreme Court has previously made clear, “[t]he representatives lawfully assembled are the Legislature with its plenary power.” Dial v. Watts, 138 S.C. 468, 136 S.E. 891, 892 (1927). “The power of taxation is a legislative power, and knows no limitations, except those imposed expressly or by plain implication in the State or Federal Constitution.” Trustees of Wofford Coll. v. City of Spartanburg, 201 S.C. 315, 23 S.E.2d 9, 11 (1942). “The legislative power of the people of the State of South Carolina is vested in the General Assembly.” Id. “It cannot be doubted that the Legislature has the power to make the levy itself.” Evans v. Beattie, 137 S.C. 496, 135 S.E. 538, 546 (1926) (overruled in part on other grounds by Weaver at 87, 492 S.E.2d at 82).

“The taxing power is one of the highest prerogatives of the General Assembly. Members of this body are chosen by the people to exercise the power in a conscientious and deliberate manner. If this power is abused, the people could, at least, prevent a recurrence of the wrong at the polls.” Crow v. McAlpine, 277 S.C. 240, 244, 285 S.E.2d 355, 358 (1981). “It is well recognized that the Legislature has full power in matters of taxation subject to express constitutional limitations, and that a statute will if possible be construed so as to render it valid, and will not be declared unconstitutional unless its invalidity is clear and beyond reasonable doubt, every presumption being made in favor of its constitutionality.” Ward v. Cobb, 204 S.C. 275, 28 S.E.2d 850, 853 (1944).

It is also recognized under South Carolina law that the word "levy" refers to two distinct and separable aspects of the taxation process: first, the legislative process of creating the tax and establishing the tax rate and, second, the ministerial process of collecting the tax, as is done through county assessment and treasury offices.

The word "levy," as hereinbefore shown, is frequently used in more than one sense, and its meaning in a particular instance is to be determined by resort to the context. It is sometimes used for the purpose of conferring all the powers incident to the creation and collection of a tax, as when "corporate authorities are vested with power to assess and collect taxes for corporate purposes," while again it is only intended to confer administrative powers in the collection of the tax, without reference to its creation

S. Ry. Co. v. Kay, 62 S.C. 28, 39 S.E. 785, 787 (1901) (overruled in part on other grounds by Weaver at 87, 492 S.E.2d at 82). Constitutional limitations on the levy of taxes relate to the legislative creation of the tax and determination of the tax rate, and not to the ministerial act of collection. Milster v. City of Spartanburg, 68 S.C. 26, 46 S.E. 539, 541 (1903) (a tax is "levied" in the constitutional sense when it is "ordained or created"). Elected representatives voting to establish a tax also consent by necessity to its collection.

In the case at hand, it was the General Assembly, and not the Recreation Commission, that created the tax and established the tax rate. References in the statute to additional steps in the "levying" process at the local level relate merely to the ministerial acts of assessing and collecting the tax. Likewise, the procedure set forth in the statute allowing for temporary modification of millage rates with approval of an unelected district's governing body, § 6-11-271(E)(1), is constitutional because any modification also requires the consent of an elected county council. Accordingly, with regard to Article X, Section 5 of the South Carolina Constitution, the challenged legislation represents nothing more than an exercise of the General

Assembly's plenary authority, as the duly elected legislative branch of the state government, to establish a tax.

Furthermore, taxpayers of the Recreation Commission and other unelected entities receiving funding under § 6-11-271 do have clear means of political recourse if dissatisfied. § 6-11-2020 provides a procedure for holding a public referendum to dissolve a special purpose district. In the alternative, § 6-11-350 allows for a referendum by majority vote to establish an elected board to govern a special purpose district.

II. Act No. 397 is not unconstitutional special legislation

a. The Act is a general law

Article III, Section 34(IX) of the South Carolina Constitution provides, in pertinent part, that "where a general law can be made applicable, no special law shall be enacted." Likewise, Article VIII, § 7 provides that "[t]he General Assembly shall provide by general law for the structure, organization, powers, duties, functions, and the responsibilities of counties, including the power to tax different areas at different rates of taxation related to the nature and level of governmental services provided. . . . No laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected alternative form of government." S.C. Const. art. VIII, § 7.

"A law is general when it applies uniformly to all persons or things within a proper class, and special when it applies to only one or more individuals or things belonging to that same class." Bd. of Trustees for Fairfield Cty. Sch. Dist. v. State, 409 S.C. 119, 125, 761 S.E.2d 241, 244–45 (2014) (quoting Charleston Cty. Sch. Dist. v. Harrell, 393 S.C. 552, 558, 713 S.E.2d 604, 608 (2011)). The S.C. Supreme Court has explained that, in determining a "proper class" subject to general legislation,

The Legislature may classify, for the purpose of legislation, if some intrinsic reason exists why the law should operate upon some and not upon all, or should affect some differently from others, but this classification must be based upon differences which are either defined by the Constitution, or are natural or intrinsic, and which suggest a reason that may rationally be held to justify the diversity in the legislation. It must not be arbitrary, for the mere purpose of classification. The class must be characterized by some substantial qualities or attributes, which render such legislation necessary or appropriate for the individuals of the class.

Sansing v. Cherokee Cty. Tourist Camp Bd., 195 S.C. 7, 10 S.E.2d 157, 158–59 (1940).

In the case at hand, the challenged statute is based on delineation of a proper class of special purpose districts. Specifically, the statute applies to unelected special purpose districts previously authorized to establish tax millage levels, whether at capped or unlimited rates. § 6-11-271(B)(1), -(C)(1). As to each category, the statute then levies, beginning in fiscal year 1999 and until adjusted by procedures set forth in the statute, ad valorem property tax millage in the amount equal to the millage levy imposed in each such special purpose district for operations and maintenance for fiscal year 1998. § 6-11-271(B)(2), (C)(2). There are currently at least 33 unelected special purpose districts (including the Recreation Commission) in 12 counties that are funded under § 6-11-271. (Exhibit E to Trial Brief of Defendant Recreation Commission of Richland County; Defendant's Exhibit 1, "South Carolina Special Purpose Districts 2016 Biennial Directory"). These entities provide public services including fire and rescue services, sewer and water services, street lighting, aging services and recreation.

The class of special purpose districts drawn in § 6-11-271 is based on pragmatic taxonomy of the diverse special purpose districts created prior to the constitutional mandate of home rule. (Defendant's Exhibit 1, "South Carolina Special Purpose Districts 2016 Biennial Directory"). Per the statute, regardless of the original legislative millage authority of any given unelected district, millage was locked in at 1998 rates for operations and maintenance until

properly adjusted by uniformly applicable procedures. It is true that, as a practical matter, subsections (B) and (C) utilize slightly different wording to apply this uniform rule to different special purpose districts depending on whether each district's prior millage authority was capped or unlimited. However, this merely illustrates that § 6-11-271, far from being special legislation, was a thoughtfully drafted enactment that brought more uniformity, not less, to the laws applicable to unelected special purpose districts.

Unelected special purpose districts affected by Weaver v. Recreation Dist., 328 S.C. 83, 492 S.E.2d 79 (1997), are clearly a proper class subject to the enactment of uniformly applicable general legislation. In the wake of Weaver, elected special purpose districts, unlike unelected districts such as the Recreation Commission, retained constitutional authority to levy taxes on duly represented constituents. The court in Weaver in effect held there is a constitutional distinction, based on Article X, § 5, between elected and unelected special purpose districts, and in particular unelected districts legislatively authorized to levy taxes; the constitutional restriction on special legislation is not so blunt an instrument as to prohibit legislative action based on that same distinction. This is a clear example of a classification "defined by the Constitution . . . that may rationally be held to justify the diversity in the legislation." Sansing, 195 S.C. 7, 10 S.E.2d at 158-59.

By way of analogy, the General Assembly clearly has constitutional authority to pass legislation amending statutory provisions governing municipalities operating under, for example, the mayor-council form of government. See S.C. Code Ann. § 5-9-10, et seq. Such legislation would be uniformly applicable to a proper class (i.e., "strong mayor" municipalities), and would not be special legislation merely because it would apply to the City of Charleston but not, for example, to the City of Columbia or City of Greenville, both of which operate under the council-

manager form. § 5-13-10, et seq. *See also* City of Charleston Ord. § 2-1; City of Columbia Ord. § 2-1; City of Greenville Ord. § 2-1. Likewise, § 6-11-271 is uniformly applicable to unelected special purpose districts previously authorized to established millage levels, a proper, constitutionally distinct class, and is not special legislation based on its inapplicability to the fundamentally different class of elected special purpose districts.

Furthermore, a law may be general even where it contains “special provisions”. Article III, Section 34 provides that, “nothing contained in this section shall prohibit the General Assembly from enacting special provisions in general laws.” S.C. Const. art. III, § 34(X). “[S]pecial provisions in general laws’ . . . mean provisions in general laws, which, while having a limited application, must not be so inconsistent with the general scheme or purpose of the statute as to prevent substantial uniformity of operation throughout the state.” State v. Burns, 73 S.C. 194, 52 S.E. 960, 961 (1906). Analysis of special provisions is based on deference to “legislative determination of necessity for special provisions in the general laws.” Brown v. Moseley, 222 S.C. 1, 9, 71 S.E.2d 591, 594 (1952).

In the case at hand, § 6-11-217 applies generally to all unelected special purpose districts previously authorized to levy their own ad valorem taxes. The 1998 statutory scheme for the levy of taxes for these districts was a logical remedy to the impending tax revenue crisis following Weaver, and the Act applies with uniformity across the state. The unusual circumstances leading up to the General Assembly’s passage of the Act would have fully supported any legislative determination of necessity for special provisions in the general laws.

Section 1 of the Act, amending § 6-11-70 in relation to election dates for elected special purpose districts, has no bearing on the constitutionality of the tax millage statute at issue in this case. This election statute, which was not pleaded as a basis for relief in the Complaint, does not

constitute special legislation. Additionally, Section 1 of the Act, which has clearly distinct subject matter and is separately titled, is severable from the tax millage provisions at issue in Section 4. Joytime Distributors & Amusement Co. v. State, 338 S.C. 634, 648–49, 528 S.E.2d 647, 654 (1999) (“The test for severability is whether the constitutional portion of the statute remains complete in itself, wholly independent of that which is rejected, and is of such a character that it may fairly be presumed the legislature would have passed it independent of that which conflicts with the constitution.”)

b. Act No. 397 was remedial legislation justified by the exigencies unelected special purpose districts faced in the wake of *Weaver v. Recreation District*

The General Assembly also has constitutional authority to enact transitional or remedial legislation to ensure the continuous operation of local government entities. As the S.C. Supreme Court has explained,

This court has recognized an exception to the outright prohibition against laws for a specific county as stated in Article VIII s 7. By reading Sections 1, 7, and 17 of Article VIII together, the court in Duncan v. York County, 267 S.C. 327, 228 S.E.2d 92 (1976), reasoned that specific legislation necessary to bring about an orderly transition to home rule is constitutionally permissible. The court stated that such authority is temporary in nature as a “one-shot” proposition and extends only to the point necessary to place Article VIII fully into operation.

Horry County v. Cooke, 275 S.C. 19, 23, 267 S.E.2d 82, 84 (1980).² However, “by ‘one-shot proposition’ the court was referring not merely to a single legislative enactment but rather to that process whereby the initial, home-rule county government becomes fully operational.” *Id.* at 23–

² Article VIII, § 1 provides that “[t]he powers possessed by all counties, cities, towns; and other political subdivisions at the effective date of this Constitution shall continue until changed in a manner provided by law.” Article VIII, § 17 provides that “[t]he provisions of this Constitution and all laws concerning local government shall be liberally construed in their favor. Powers, duties, and responsibilities granted local government subdivisions by this Constitution and by law shall include those fairly implied and not prohibited by this Constitution.”

24, 267 S.E.2d at 84. The test is whether “a legally constituted government has become functional[.]” Davis v. Richland Cty. Council, 372 S.C. 497, 503, 642 S.E.2d 740, 743 (2007).

One type of constitutional “transitional” legislation is remedial legislation. Hamm v. Cromer, 305 S.C. 305, 308, 408 S.E.2d 227, 229 (1991). Legislation is remedial, and therefore constitutional, if it serves to restore “continuous and successful operation” of an existing local government entity. *See id.* The S.C. Supreme Court has found such transitional legislation to be constitutional where it “accommodates legal contingencies not originally foreseen but does not press beyond the Duncan case exception allowing the legislature to establish a legal county government.” Cooke, 275 S.C. at 25, 267 S.E.2d at 85 (addressing successive attempts to establish county government complying with the Voting Rights Act of 1965).

In the matter at hand, the State of South Carolina faced the difficult task of providing a mechanism for funding the operations of an entire class of its political subdivisions, unelected special purpose districts. These legally constituted units of local government, established for decades and providing important services including recreation, sanitary sewer operation, and fire protection, were suddenly left without any means to raise revenue in the wake of the Supreme Court’s opinion in Weaver v. Recreation District. In that opinion, the Court acknowledged the critical need for remedial legislation as a result of its constitutional holding:

We are cognizant, however, of the disruptive effect today's holding could have on the financial operation of numerous special purpose districts, local commissions and boards throughout this state. Accordingly, in order to give the General Assembly an opportunity to address this problem, we hold this decision shall be applied prospectively beginning December 31, 1999.

Weaver, 328 S.C. at 87–88, 492 S.E.2d at 82 (decided October 13, 1997).

In passing Act 397 of 1998, the General Assembly took the Supreme Court up on its invitation to remedy a situation that would have otherwise likely resulted in the complete

operational default of numerous special purpose districts throughout South Carolina. The Act was therefore based on a need to accommodate “legal contingencies not originally foreseen”, Cooke, supra, and to prevent collapse of the “continuous and successful operation”, Hamm, supra, of recreation, sewer and fire districts across the state. Accordingly, Act 397 was remedial, transitional legislation and therefore constitutionally sound.

Likewise, “where a special law will best meet the exigencies of a particular situation, it is not unconstitutional.” Bd. of Trustees for Fairfield Cty. Sch. Dist. v. State, 409 S.C. 119, 125-26, 761 S.E.2d 241, 245 (2014) (citing Charleston Cty. Sch. Dist. v. Harrell, 393 S.C. 558, 558, 713 S.E.2d 604, 608 (2011)). “[T]he constitutional prohibition against special legislation operates similarly to our equal protection guarantee in that it prohibits unreasonable and arbitrary classifications. A classification is arbitrary, and therefore unconstitutional, if there is no reasonable hypothesis to support it.” Id., at 125, 761 S.E.2d a 244–45. “Restated, special legislation will survive a constitutional challenge where there is a logical basis and sound reason for resorting to such legislation.” Id. at 125–26, 761 S.E.2d at 245. The burden is on the challenger to show the lack of such “logical basis or sound reason”. Id. at 126, 761 S.E.2d at 245.

As discussed above, the millage provisions of Act 397 were a reasonable attempt to provide a mechanism for funding unelected special purposes districts in the wake of the Weaver ruling. The Court in Weaver specifically identified a logical basis and sound reason for such legislation, recognizing “the disruptive effect today's holding could have on the financial operation of numerous special purpose districts, local commissions and boards throughout this state” and delaying application of its ruling to provide the General Assembly sufficient time to act. Weaver, 328 S.C. at 87–88, 492 S.E.2d at 82. Accordingly, Act No. 397 of 1998 is constitutional remedial legislation based on a logical classification of special purpose districts.

III. The Home Rule Act (S.C. Code § 4-9-10, et seq.) does not restrict generally applicable legislation regarding special purpose districts

Finally, Act No. 285 of 1975, referred to as the Home Rule Act and codified at S.C. Code Ann. §§ 4-9-10 through 4-9-1230, does not restrict the power of the General Assembly to enact general laws governing existing special purpose districts. The Home Rule legislation was enacted following 1973 constitutional amendments designed to transfer control over local policymaking and administration away from county legislative delegations and instead to elected county bodies, as “[c]hanneling local government decisions through a statewide legislative body [had become] increasingly more cumbersome . . . [as] the economies and the needs of different parts of the state became more varied.” J. L. Underwood, *THE CONSTITUTION OF SOUTH CAROLINA, VOL. II: THE JOURNEY TOWARD LOCAL SELF-GOVERNMENT* 3 (1989).

The Home Rule Act serves to designate the “structure, organization, powers, duties, functions and responsibilities of county government”, but does not purport to restrict general legislation regarding special purpose districts. § 4-9-310.³ To the contrary, the Home Rule Act specifically states that it does *not* change the functions of existing special purpose districts or the authority of the General Assembly to pass legislation affecting special purpose districts:

The provisions of this chapter shall not be construed to devolve any additional powers upon county councils with regard to public service districts, special purpose districts, water and sewer authorities, or other political subdivisions by whatever name designated, (which are in existence on the date one of the forms of government provided for in this chapter becomes effective in a particular county) and such political subdivisions *shall continue to perform their statutory functions* prescribed in laws creating such districts or authorities *except as they may be modified by act of the General Assembly*

S.C. Code Ann. § 4-9-80 (emphasis added).

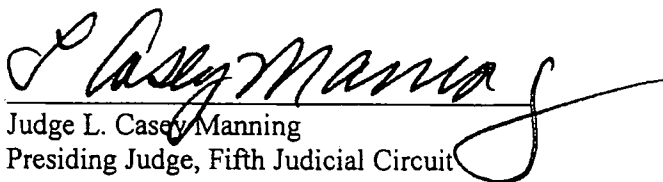
³ Any such attempt at restricting future legislation would have been ineffective. See Chris J. Yahnis Coastal, Inc. v. Stroh Brewery Co., 295 S.C. 243, 247, 368 S.E.2d 64, 66 (1988).

The functions and powers of special purpose districts are addressed in detail in other portions of the S.C. Code, including but not limited to Title 6, Chapter 11 ("Special Purpose or Public Service Districts Generally"). In the legislation challenged in this case, codified in relevant part at § 6-11-271, the General Assembly merely enacted another general law regarding this form of local government. The Home Rule Act does not affect the legislature's authority to enact such general laws affecting special purpose districts. Likewise, the Home Rule constitutional amendment, Art. VIII, § 7, allows the General Assembly to enact general legislation affecting existing special purpose districts. Spartanburg Sanitary Sewer Dist. v. City of Spartanburg, 283 S.C. 67, 81, 321 S.E.2d 258, 266 (1984).

CONCLUSION

Act No. 397 of 1998, including Section 4 of the Act as codified at § 6-11-271, is constitutional, general legislation, well within the General Assembly's fundamental power to establish a tax. The Plaintiff has failed to meet his burden to prove beyond a reasonable doubt any constitutional infirmity. Accordingly, the relief sought by the Plaintiff is denied in full, and the Court orders that judgment be entered in favor of defendant Recreation Commission of Richland County.

IT IS SO ORDERED.


Judge L. Casey Manning
Presiding Judge, Fifth Judicial Circuit

Columbia, South Carolina

May 6, 2019

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Don Weaver,)

Civil Action No.

Plaintiff,)

vs.)

COMPLAINT

Recreation District,
Recreation Commission of Richland
County, Paul Brawley, as Auditor
of Richland County, David A. Adams
as Treasurer of Richland County)

Declaratory Judgment
(Non-Jury)

Defendants.)

2017 FEB 22 AM 9:08
CLERK OF COURT
C.C.P. & J.S.

The Plaintiff, Don Weaver, alleges as follows:

1. Plaintiff Don Weaver owns property in the unincorporated area of Richland County, South Carolina (hereinafter referred to as the "County") and is a taxpayer of the Recreation District of Richland County (hereinafter referred to as the "Recreation District").
2. Defendant Recreation District is a special purpose district of the State of South Carolina operating recreational facilities in the unincorporated areas of the County.
3. Defendant Recreation Commission of Richland County is the unelected governing body of the Recreation District.
4. Defendant Paul Brawley is the duly elected Auditor of the County of Richland, State of South Carolina.
5. Defendant David A. Adams is the duly elected Treasurer of the County of Richland, State of South Carolina.
6. The County Auditor and Treasurer levy and collect taxes for the Recreation District as well as the County.

7. This action is brought pursuant to Rule 57 of the South Carolina Rules of Civil Procedure and Section 15-53-10 *et seq.* of the Code of Laws of South Carolina (1976) for declaratory relief and to determine the constitutionality of certain statutes affecting the Recreation District.

8. The history of legislation regarding the Recreation District includes the following:

- a. The predecessor to the Recreation District, the Richland County Physical Education Commission, was created pursuant to Act No. 359 of 1953 for the purpose of promoting a system of physical education in the County.
- b. Act No. 359 of 1953 was subsequently repealed by Act No. 873 of 1960 which provided for the creation and establishment of the Rural Recreation District of Richland County, the immediate predecessor to the Recreation District.
- c. Act No. 317 of 1965 provided further powers to the governing body of the Rural Recreation District, the Rural Recreation Commission, by authorizing said Commission to levy a tax not exceeding one-half mill per annum.
- d. Act No. 310 of 1967 increased the authorized tax levy from one-half (1/2) mill to one and one-half (1 1/2) mills and provided that the Rural Recreation Commission shall be composed of seven resident electors of the Rural Recreation District, appointed by the Governor upon recommendation of a majority of the members of the Richland County Legislative Delegation.

e. Act No. 317 of 1969 changed the name of the Rural Recreational District and Rural Recreational Commission to the Recreation District and the Recreation Commission of Richland County.

f. Act No. 317 of 1969, further empowered the Commission:

[t]o levy upon all taxable property in the District a tax not exceeding five mills per annum to meet the cost of operating and maintaining parks, playgrounds and recreational facilities under its jurisdiction. Such tax shall be levied by the county auditor and collected by the county treasurer who shall keep it in a separate fund applicable solely to the purpose for which it is levied. Section 51-395.4 (15) S.C. Code (1952).

9. In 1994, Plaintiff Weaver brought a case against the Recreation District alleging that Act No. 317 of 1969 violated the "taxation without representation" provision of the South Carolina Constitution found in Article X, Section 5.

10. In 1997, the Supreme Court, in *Weaver v. Recreation Dist.*, 328 S.C. 83, 492 S.E.2d 79 (1997) ruled in favor of Weaver as follows:

Here, Act No. 317 gives the Recreation Commission the complete discretion to determine its annual budget, and to levy anywhere from one to five mills taxes to meet its budget. We find such a delegation impermissible under our holdings in *Crow*, *Traynham*, and *Bradley*. Accordingly, insofar as Act No. 317 permits such a delegation, it violates *Article X, § 5 of the South Carolina Constitution* and may not stand.

We are cognizant, however, of the disruptive effect today's holding could have on the financial operation of numerous special purpose districts, local commissions and boards throughout this state. Accordingly, in order to give the General Assembly an opportunity to address this problem, we hold this decision shall be applied prospectively beginning December 31, 1999.

Id. at 87-88, 492 S.E.2d at 81-82.

11. In response to *Weaver v. Recreation Dist.*, the General Assembly passed Act No. 397 of 1998 which provided as follows:

SECTION 6-11-271. Millage levy for special purpose district.

(A). For purposes of this section, "special purpose district" means any special purpose district or public service authority, however named, created prior to March 7, 1973, by or pursuant to an act of the General Assembly of this State.

(B)(1) This subsection applies only to those special purpose districts the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage up to or not exceeding a given amount and did impose this levy in fiscal year 1997-98.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection, beginning with the levy for fiscal year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in fiscal year 1998.

(C)(1) This subsection applies only to those special purpose districts, the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage without limit as to amount.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection, beginning with the levy for fiscal year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in that special purpose district for operations and maintenance for fiscal year 1998.

(D) Notwithstanding any other provision of law, any special purpose district within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, may request the commissioners of election of the county in which the special purpose district is located to conduct a referendum to propose a modification in the tax millage of the district. Upon receipt of such request, the commissioners of election shall schedule and conduct the requested referendum on a date specified by the governing body of the district. If approved by referendum, such

modification in tax millage shall remain effective until changed in a manner provided by law.

(E)(1) All special purpose districts located wholly within a single county and within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, are authorized to modify their respective millage limitations, provided the same is first approved by the governing body of the district and by the governing body of the county in which the district is located by resolutions duly adopted. Any increase in millage effectuated pursuant to this subsection is effective for only one year.

(2) Any millage increase levied pursuant to the provisions of item (1) of this subsection must be levied and collected by the appropriate county auditor and county treasurer.

12. No elected body has or exercises supervision or control over the Recreation District or the Recreation Commission.

13. There is no accountability to Plaintiff Weaver or other taxpayers similarly situated for the use of funds set forth in Act 397.

14. Richland County Council is the only duly elected governing body with authority to levy and collect taxes on the taxpayers of Richland County in the unincorporated areas of the County for recreational purposes.

FOR A FIRST CAUSE OF ACTION
(Taxation without Representation)

15. The allegations above are realleged and incorporated herein by reference.

16. The South Carolina Constitution prohibits "taxation without representation" in Article X, Section 5 which states in part that "[n] tax, subsidy or charge shall be established, fixed, laid or levied under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled."

17. Act 397 of 1998 is an unlawful taxation without representation on the citizens of Richland County, including Plaintiff, as taxes levied under said Act are not fixed, laid, or levied by the consent of the citizens of Richland County, including Plaintiff or by consent of their own representatives..

18. Therefore, Act 397 of 1998 is unconstitutional.

FOR A SECOND CAUSE OF ACTION
(Special Legislation)

19. The allegations contained above are realleged and incorporated by reference.

20. Special legislation is prohibited under Article III, Section 34 of the South Carolina Constitution.

21. In order that a law may be general, it must be of force in every county in the State. A law is general when it applies to the whole State, and local when it applies to only a part of the State.

22. Act 397 of 1998 is unconstitutional special legislation as it applies to only a part of the State and there is no logical basis or sound reason for such legislation as the taxation levied through that special legislation can be achieved properly through the elected officials of the Richland County Council.

23. Therefore, Act 397 of 1998 is unconstitutional.

FOR A THIRD CAUSE OF ACTION
(Violation of Home Rule)

24. The allegations contained above are realleged and incorporated by reference.

25. The South Carolina Constitution provides that:

The General Assembly shall provide by general law for the structure, organization, powers, duties, functions, and the responsibilities of counties, including the power to tax different areas at different rates of taxation related to the nature and level of

governmental services provided. Alternate forms of government, not to exceed five, shall be established. No laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected alternative form of government.

S.C. Const. Ann. Art. VIII, § 7.

26. Due to this constitutional amendment, the General Assembly enacted Act No. 283 in 1975. 1975 S.C. Acts 692 which is commonly referred to as the Home Rule Act and is codified at §§ 4-9-10 through 4-9-1230 S.C. Code Ann. (1976).

27. Although the South Carolina Supreme Court has stated that the Home Rule Act's prohibition on "special legislation" does not operate retroactively to abolish all "special legislation" which was in effect in South Carolina prior to the enactment of the Home Rule Act, it does void special legislation passed thereafter. *See Graham v. Creel*, 289 S.C. 165, 168, 345 S.E.2d 717, 719 (1986).

28. Therefore, Act No. 397 of 1998 is in violation of the Home Rule Act, unconstitutional, and void.

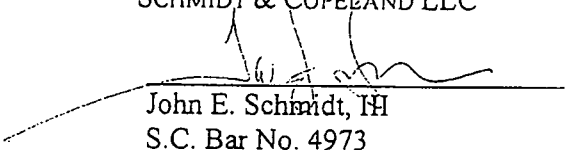
29. Pursuant to the Home Rule Act, the governing and taxing power for Richland County is to be found in the elected members of the Richland County Council, not decided in special legislation that affects only a specific county.

WHEREFORE Plaintiff prays:

1. That this Court declares that Act No. 397 of 1998 is unconstitutional;
2. That this Court further declare that the Richland County Council shall be the sole authority to levy taxes for the operational purposes of the Recreation District;
3. That any Order passed by the Court be prospective to the extent that it would not interrupt the operation of the services of the Recreation District; and

4. For such other and further relief as this Court may deem just and proper.

SCHMIDT & COPELAND LLC



John E. Schmidt, II

S.C. Bar No. 4973

John@SchmidtCopeland.com

Melissa J. Copeland

S.C. Bar No. 5904

Missy@SchmidtCopeland.com

1201 Main Street, Suite 1100

P.O. Box 11547(29211)

Columbia, SC 29201

803.748.1342 (phone)

803.748.1210 (fax)

Attorneys for Plaintiff

Columbia, South Carolina

February 22, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	Civil Action No. 2017-CP-40-0988
Don Weaver,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER OF DEFENDANT
	)	RECREATION COMMISSION
	)	OF RICHLAND COUNTY
Recreation District, Recreation	)	
Commission of Richland County	)	
Paul Brawley, as Auditor of Richland	)	
County, David A. Adams as Treasurer	)	
of Richland County,	)	
	)	
Defendants.	)	

Defendant Recreation Commission of Richland County, a body politic (hereinafter "RCRC"), incorrectly identified in the Complaint as Recreation District and Recreation Commission of Richland County, answers the Complaint of Plaintiff Don Weaver as follows:

FOR A FIRST DEFENSE

1. Answering Paragraph 1 of the Complaint, the correct designation of the special purpose district referred to as "Recreation District" is the Recreation Commission of Richland County, and RCRC therefore denies Paragraph 1 as stated. RCRC lacks knowledge and information sufficient to form a belief as to the remaining allegations of Paragraph 1, and therefore denies the same and demands strict proof thereof.

2. Answering Paragraph 2 of the Complaint, the correct designation of the special purpose district referred to as "Recreation District" is the Recreation Commission of Richland County, and RCRC therefore denies Paragraph 2 as stated.

RCRC further answers that it, the Recreation Commission of Richland County, is a special purpose district of the State of South Carolina operating recreational facilities in portions of Richland County.

3. RCRC denies the allegations of Paragraph 3 of the Complaint.
4. RCRC admits the allegations of Paragraphs 4, 5 and 6 of the Complaint, upon information and belief.
5. Paragraph 7 of the Complaint requires no reply from RCRC.
6. Answering Paragraph 8 of the Complaint and all subparts thereof, RCRC craves reference to the legislative acts and statutes in question and denies any allegations of Paragraph 8 and its subparts inconsistent therewith.
7. RCRC admits the allegations of Paragraph 9 of the Complaint.
8. Answering Paragraph 10 of the Complaint, RCRC craves reference to the judicial opinion in question and denies any allegations of Paragraph 10 inconsistent therewith.
9. Answering Paragraph 11 of the Complaint, RCRC craves reference to the legislative act and statute in question and denies any allegations of Paragraph 11 inconsistent therewith.
10. RCRC denies the allegations of Paragraphs 12, 13 and 14 of the Complaint.
11. Answering Paragraph 15 of the Complaint, RCRC reiterates its responses to the allegations of paragraphs 1 through 14 as if fully incorporated herein.

12. Answering Paragraph 16 of the Complaint, RCRC craves reference to the constitutional provision in question and denies any allegations of Paragraph 16 inconsistent therewith.

13. RCRC denies the allegations of Paragraphs 17 and 18 of the Complaint.

14. Answering Paragraph 19 of the Complaint, RCRC reiterates its responses to the allegations of paragraphs 1 through 18 as if fully incorporated herein.

15. Answering Paragraph 20 of the Complaint, RCRC craves reference to the constitutional provision in question and denies any allegations of Paragraph 20 inconsistent therewith.

16. Answering Paragraph 21 of the Complaint, RCRC craves reference to Article III, Section 34 of the South Carolina Constitution and opinions of the South Carolina Supreme Court and Court of Appeals applying and interpreting the same, and RCRC denies the allegations of Paragraph 21 to the extent that it is inconsistent therewith.

17. RCRC denies the allegations of Paragraphs 22 and 23 of the Complaint.

18. Answering Paragraph 24 of the Complaint, RCRC reiterates its responses to the allegations of paragraphs 1 through 23 as if fully incorporated herein.

19. Answering Paragraph 25 of the Complaint, RCRC craves reference to the constitutional provision in question and denies any allegations of Paragraph 25 inconsistent therewith.

20. Answering Paragraph 26 of the Complaint, RCRC craves reference to the legislative enactments and statutes in question and denies any allegations of Paragraph 26 inconsistent therewith.

21. RCRC denies Paragraph 27 of the Complaint and craves reference to the applicable constitutional and statutory provisions and case law.

22. RCRC denies the allegations of Paragraph 28 of the Complaint.

23. Answering Paragraph 29 of the Complaint, RCRC is not part of the political subdivision Richland County, but subject to that qualification RCRC admits the allegations of Paragraph 29.

24. RCRC denies the allegations and requests for relief set forth in the "WHEREFORE" paragraph and all subparts thereof.

FOR A SECOND DEFENSE

(Failure to State a Claim)

25. The Complaint fails to set forth facts sufficient to constitute a cause of action and should be dismissed as a matter of law.

FOR A THIRD DEFENSE

(S.C. Code of Laws Section 15-53-80 and Rule 4(d)(4)(B), SCRCP)

26. This action should be dismissed based on Plaintiff's failure to properly serve a copy of the Summons and Complaint on the Attorney General pursuant to Section 15-53-80 of the South Carolina Code of Laws (1976) and Rule 4(d)(4)(B), SCRCP.

FOR A FOURTH DEFENSE

(Lack of Standing)

27. The Plaintiff in this case lacks standing to bring the claims asserted against RCRC.

FOR A FIFTH DEFENSE

(Nonjusticiable Political Question and Violation of Separation of Powers)

28. The Plaintiff's claims present nonjusticiable political questions that are exclusively or predominantly political in nature rather than judicial, and which are based exclusively on consideration of the wisdom, policy, and expediency of a legislative enactment.

29. Accordingly, judicial determination of the Plaintiff's claims is prohibited by Article I, Section 8 of the South Carolina Constitution.

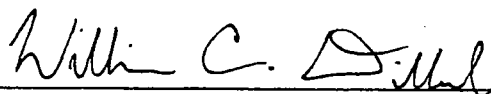
FOR A SIXTH DEFENSE

(Reservation of Defenses)

30. RCRC reserves and does not waive any additional or further defenses as may be revealed by additional information that may be acquired.

WHEREFORE, having fully answered the Complaint, Recreation Commission of Richland County prays that the Complaint be dismissed, with costs, and for such other and further relief as this Court may deem just and proper.

BELSER & BELSER, P.A.



Charles H. McDonald
William C. Dillard, Jr.
1901 Main Street, Suite 1550 (29201)
Post Office Box 96
Columbia, South Carolina 29202
803-929-0096
*Attorneys for Recreation Commission
of Richland County*

Columbia, South Carolina
March 22, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE CIRCUIT COURT FOR THE
FIFTH JUDICIAL CIRCUIT

Don Weaver,)
)
Plaintiff,)

Civil Action Number 17-CP-40-0988

vs.)

ANSWER

Recreation District, Recreation)
Commission of Richland County,)
Paul Brawley, as Auditor of Richland)
County, David A. Adams as Treasurer of)
Richland County,)
)
Defendants.)

FILED
2017 APR 17 PM 1:36
JEANETTE M. MCBRIDE
C.C.P. & G.S.

Defendants, Paul Brawley, as Auditor of Richland County, and David A. Adams, as
Treasurer of Richland County, by way of Answer to the Complaint, allege as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint is denied except as is hereinafter
expressly admitted or qualified or explained.

FOR A SECOND DEFENSE

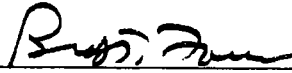
2. As to paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 14, 16, 20, 21, 25, 27 and 29 of the
Complaint, Defendants upon information and belief admit the same.

3. As to paragraphs 7, 12, 13, 15, 17, 18, 19, 22, 23, 24, 26 and 28 of the Complaint,
no response is needed.

WHEREFORE, having stated their Answer to the Complaint, Defendants pray that this
Court:

1. Inquire into the matters set forth herein and apportion the rights of the parties; and

2. Grant Defendants such other and further relief as the Court deems just and proper.



Bradley T. Farrar
Richland County Attorney's Office
2020 Hampton Street, Suite 4018
Post Office Box 192
Columbia, South Carolina 29202
(803) 576-2070 (fax) (803) 576-2139
ATTORNEY FOR DEFENDANTS
PAUL BRAWLEY, AS AUDITOR OF
RICHLAND COUNTY, AND DAVID A.
ADAMS, AS TREASURER OF
RICHLAND COUNTY

April 17, 2017
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Don Weaver,

Plaintiff,
vs.

Recreation District, Recreation
Commission of Richland County,
Paul Brawley, as Auditor of
Richland County, David A. Adams
as Treasurer of Richland County,
Defendants.

IN THE CIRCUIT COURT FOR THE
FIFTH JUDICIAL CIRCUIT

Civil Action Number 17-CP-40-0988

STIPULATIONS OF FACT

RICHLAND COUNTY
FILED
2017 NOV 21 AM 11:52
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

The parties agree and stipulate to the following facts:

1. Plaintiff Don Weaver owns property in the unincorporated area of Richland County, South Carolina and is a taxpayer of the Defendant, Recreation Commission of Richland County and has standing to assert the claims contained in his Complaint filed in this matter.
2. Defendant Recreation Commission of Richland County is a special purpose district of the State of South Carolina operating recreational facilities in portions of Richland County, South Carolina.
3. Defendant Recreation Commission of Richland County is governed by a Board of Commissioners that are not elected by the voters of Richland County.
4. Defendant Paul Brawley is the duly elected Auditor of the County of Richland, State of South Carolina.
5. Defendant David A. Adams is the duly elected Treasurer of the County of Richland, State of South Carolina.

6. The County Auditor and Treasurer administer the levy and collection of taxes for the Recreation District as well as the County.

7. In 1994, Plaintiff Weaver brought a case against the Recreation District alleging that Act No. 317 of 1969 violated the "taxation without representation" provision of the South Carolina Constitution found in Article X, Section 5.

8. In 1997, the Supreme Court, in *Weaver v. Recreation Dist.*, 328 S.C. 83, 492 S.E.2d 79 (1997) ruled in favor of Weaver as follows:

Here, Act No. 317 gives the Recreation Commission the complete discretion to determine its annual budget, and to levy anywhere from one to five mills taxes to meet its budget. We find such a delegation impermissible under our holdings in *Crow*, *Traynham*, and *Bradley*. Accordingly, insofar as Act No. 317 permits such a delegation, it violates *Article X, § 5 of the South Carolina Constitution* and may not stand.

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9. In response to *Weaver v. Recreation Dist.*, the General Assembly passed Act No. 397 of 1998 which provided as follows:

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(B)(1) This subsection applies only to those special purpose districts the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage up to or not exceeding a

given amount and did impose this levy in fiscal year 1997-98.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection, beginning with the levy for fiscal year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in fiscal year 1998.

(C)(1) This subsection applies only to those special purpose districts, the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage without limit as to amount.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection, beginning with the levy for fiscal year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in that special purpose district for operations and maintenance for fiscal year 1998.

(D) Notwithstanding any other provision of law, any special purpose district within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, may request the commissioners of election of the county in which the special purpose district is located to conduct a referendum to propose a modification in the tax millage of the district. Upon receipt of such request, the commissioners of election shall schedule and conduct the requested referendum on a date specified by the governing body of the district. If approved by referendum, such modification in tax millage shall remain effective until changed in a manner provided by law.

(E)(1) All special purpose districts located wholly within a single county and within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, are authorized to modify their respective millage limitations, provided the same is first approved by the governing body of the district and by the governing body of the county in which the district is located by resolutions duly adopted. Any increase in millage effectuated pursuant to this subsection is effective for only one year.

(2) Any millage increase levied pursuant to the provisions of

item (1) of this subsection must be levied and collected by the appropriate county auditor and county treasurer.

WE SO STIPULATE:

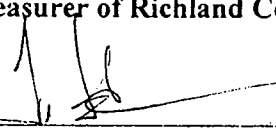


William C. Dillard, Jr., Esquire
1901 Main Street, Suite 1550 (29201)
Post Office Box 96, Columbia, SC 29202
Phone: (803) 929-0096, Fax: (803) 929-0196
will@belsarpa.com

**Attorneys for Recreation District, Recreation
Commission of Richland County**

Bradley T. Farrar
Chief Deputy County Attorney
Richland County Attorney's Office
2020 Hampton Street, Room 4018
Post Office Box 192
Columbia, South Carolina 29202
(803) 576-2076 (fax) (803) 576-2139
bradfarrar@richlandonline.com or FARRARB@rcgov.us

**Attorneys for Paul Brawley, as Auditor of
Richland County, David A. Adams
as Treasurer of Richland County**



John E. Schmidt, III
Schmidt & Copeland, LLC
S.C. Bar No. 4973
John.Schmidt@TheSCLawfirm.com

1201 Main Street, Suite 1100
P.O. Box 11547(29211)
Columbia, SC 29201
803.748.1342 (phone)
803.748.1210 (fax)

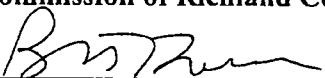
Attorneys for Plaintiff

item (1) of this subsection must be levied and collected by the appropriate county auditor and county treasurer.

WE SO STIPULATE:

William C. Dillard, Jr., Esquire
1901 Main Street, Suite 1550 (29201)
Post Office Box 96, Columbia, SC 29202
Phone: (803) 929-0096, Fax: (803) 929-0196
will@belserpa.com

**Attorneys for Recreation District, Recreation
Commission of Richland County**



Bradley T. Farrar
Chief Deputy County Attorney
Richland County Attorney's Office
2020 Hampton Street, Room 4018
Post Office Box 192
Columbia, South Carolina 29202
(803) 576-2076 (fax) (803) 576-2139
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John E. Schmidt, III
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S.C. Bar No. 4973
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1201 Main Street, Suite 1100
P.O. Box 11547(29211)
Columbia, SC 29201
803.748.1342 (phone)
803.748.1210 (fax)

Attorneys for Plaintiff

SECTION 5B. Act to become law contingent on election.—If a majority voting in the election vote in favor of the question, the provisions of this act shall become law. If a majority voting in the election oppose the question the provisions of this act shall not become law and shall be null and void.

SECTION 6. Repeal.—All acts or parts of acts inconsistent herewith are repealed.

SECTION 7. Time effective.—This act shall take effect upon approval by the Governor.

Approved the 6th day of June, 1960.

(R1137, H1211)

No. 873

An Act To Provide For The Creation And Establishment Of The Rural Recreational District In Richland County; To Provide For The Government Thereof; To Make Provisions For The Issuance Both Of General Obligation Bonds Of The District And Revenue Bonds Of The District; To Prescribe The Conditions Under Which Such Bonds May Be Issued And The Purposes For Which The Proceeds May Be Expended; To Provide For The Payment Of The Bonds; To Provide For An Election And To Repeal Act No. 359 Of 1953.

Be it enacted by the General Assembly of the State of South Carolina :

SECTION 1. Rural Recreational District created in Richland County contingent on election.—Subject to a favorable result in the election hereinafter provided for, there is hereby created and established in Richland County a district to be known as the Rural Recreational District, hereinafter referred to as the district, with such duties, power and authority as herein provided and including such territory and boundaries as hereinafter designated.

SECTION 2. Area.—The district shall include and be comprised of the entire territory of Richland County not embraced within the city limits of Columbia.

SECTION 3. To be political subdivision.—The district shall be a body politic and shall exercise and enjoy all the rights and priv-

EXHIBIT A

ileges of such and be subject to the rules and regulations herein imposed.

SECTION 4. To be governed by a commission—members—appointments—terms—vacancies—officers.—The district shall be governed by a commission to be known as the Rural Recreational Commission of Richland County, hereinafter referred to as the commission, which shall be composed of five resident electors of the district to be appointed by the Governor upon the recommendation of the Richland County Legislative Delegation, including the Senator. In making such recommendations the Richland County Legislative Delegation shall endeavor to give representation on the commission to all sections of the district. The terms of office of the initial commission shall be for terms of one, two, three, four and five years, respectively, and the initial appointees, after organizing, shall determine the duration of their respective terms by lot. Upon the expiration of the initial terms of office, successors for all succeeding terms shall hold office for a term of five years. Should vacancies in office occur, successors shall be appointed for the balance of the unexpired term in the same manner as the members, whom they succeed, were appointed. All commissioners shall hold office for their respective term and until their successors shall have been elected and qualified.

Immediately upon the appointment of the commission, it shall organize by electing one of its number as chairman, a second as vice-chairman, and a third as secretary. The officers of the commission shall hold office for terms of one year and until their successors shall be chosen and qualify. It shall be the duty of the commission to see that a record of the appointees to the commission shall be filed in the clerk of court's office in Richland County, so as to indicate the persons holding office as members of the commission and the duration of their respective terms. No member of the commission shall receive any compensation for his services as a member of the commission.

SECTION 5. Powers and duties.—The commission shall be empowered as follows:

- (1) To sue and be sued.
- (2) To adopt, use and alter a corporate seal.
- (3) To define a quorum for its meetings.
- (4) To make bylaws for the management and regulation of its affairs.
- (5) To acquire, by gift, purchase, or through the exercise of eminent domain, lands or interest thereon whereupon to establish

physical education and recreation facilities, including tennis courts, baseball diamonds, football fields, basketball courts, swimming pools, other facilities of like nature and general recreational facilities.

(6) To expend all moneys which it shall receive, including such portion of any bonds sold pursuant to this act as may be set apart to the commission for its functions.

(7) To acquire and operate any apparatus or equipment useful in the operation of its facilities.

(8) To prescribe rules and regulations governing the use of the facilities.

(9) To fix rates and charges for the use of any facilities which might be established through the proceeds of the sale of revenue bonds.

(10) To make contracts and to execute instruments that are necessary or convenient for the discharge of the functions of the commission.

(11) To make contracts for construction and other services.

(12) To appoint agents, employees and servants, to prescribe their duties, to fix their compensation, to determine if and to what extent they shall be bonded for the faithful performance of their duties.

(13) To issue and sell general obligation bonds of the district in the amount of not exceeding two hundred thousand dollars to obtain funds for the acquisition of any facilities which the commission is empowered to operate in such manner as hereinafter provided.

(14) To issue and sell revenue bonds of the district payable from the revenue of any facility which the commission shall be empowered to construct and operate for the purpose of obtaining funds for the acquisition and maintenance of facilities which the commission is empowered to operate.

SECTION 6. Property exempt from taxes.—All property of the commission shall be exempt from all ad valorem taxes levied by the State, county or any municipality, division, subdivision or agency, direct or indirect.

SECTION 7. Fiscal year—audit—annual report.—The commission shall conduct its affairs on the fiscal year basis employed by Richland County. As shortly after the close of its fiscal year as may be practicable an audit of its affairs shall be made by a certified public accountant of good standing, to be designated by the commission. Copies of such audit, incorporated into an annual report of the

commission, shall be filed with the Senator from Richland County, the secretary of the house delegation from Richland County and in the office of the clerk of court for the county.

SECTION 8. Amendments to act not to impair contracts.—The right to alter, amend or rescind this act is hereby expressly reserved and disclosed, but no such amendment or repeal shall operate to impair the operation of any contract made by the authority pursuant to any power conferred by this act.

SECTION 9. Issue bonds—use of proceeds.—In order to obtain funds to acquire the facilities above referred to, the commission is hereby authorized and empowered to issue not exceeding two hundred thousand dollars of general obligation bonds of the district. The proceeds derived from the sale of such bonds shall be disposed of as follows:

(a) Any accrued interest shall be applied to the payment of the first installment of interest to become due on such bonds.

(b) Any premium shall be applied to the payment of the first installment of principal of such bonds.

(c) The remaining proceeds shall be retained by the commission and shall be used to defray the cost of acquiring the facilities hereinbefore described.

SECTION 10. Maturity — redemption — interest — dates.—

The bonds may be issued either as a single issue or from time to time in several separate issues. All bonds shall mature serially in successive annual installments of such amounts as may be determined by the commission, except that the maturity date of the last installment shall fall due not later than fifteen years from the date the bonds bear, and the first maturity date may be postponed three years from the date the bonds bear. Any bond issued pursuant to this act may, at the discretion of the commission, contain a provision permitting its redemption prior to its stated maturity at such redemption premiums as the commission shall prescribe. The bonds shall bear such rate or rates of interest as the commission may determine, payable on such occasions as the commission shall determine, but the average rate of interest for each issue of bonds sold pursuant to the authorizations of this act shall not exceed four per cent. The bonds may be issued with the privilege to the holder of having them registered as to principal on the books of the Treasurer of Richland County, and the principal thus made payable to the registered holder

(unless the last registered transfer shall have been to bearer), upon such conditions as the commission may prescribe. They shall bear such date or dates and be payable at such place or places as the commission may likewise prescribe.

SECTION 11. Execution.—The bonds and the interest coupons thereunto attached shall be executed in such manner as the commission shall prescribe.

SECTION 12. Sale.—The bonds shall be sold by the commission at not less than par and accrued interest to the date of their respective deliveries at public sale and, at least ten days prior to any such sale, notice announcing the intention to receive bids for the sale of any bonds authorized by this act shall be published in a newspaper of general circulation in the State of South Carolina.

SECTION 13. Exempt from taxes.—The bonds and all interest to become due thereon shall have the tax exempt status prescribed by Act No. 730 of the Acts of 1952.

SECTION 14. Payment.—For the payment of the principal and interest of all bonds issued pursuant to this act as the same respectively mature, and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the district shall be irrevocably pledged, and there shall be levied annually by the Auditor of Richland County, and collected by the Treasurer of Richland County, in the same manner as county taxes are levied and collected, a tax on all taxable property in the district sufficient to pay the principal and interest of such bonds as they respectively mature, and to create such sinking fund as may be necessary therefor.

SECTION 15. Action of commission may be taken at any meeting.—Any action required of the commission may be taken at any meeting of the commission, regular or special, and at such meeting a majority of the members of the commission shall constitute a quorum for the purpose of adopting a resolution making provision for the issuance of bonds pursuant to this act, awarding the sale of such bonds or taking any other action permitted or required of the commission by the provisions of this act. *Provided*, however, that no general obligation bonds shall be issued without a favorable vote in the election herein provided for.

SECTION 16. Election concerning creation of District—conduct of.—An election shall be held at the same time as the general

election in November 1960, in order to determine if the District shall be created and to further determine if the Commission shall be empowered to issue general obligation bonds under the provisions of this act. The commissioners of election for Richland County shall conduct the election.

Except as otherwise provided for in this act, the election shall be conducted in accordance with provisions of the South Carolina election law, and all persons resident in the district and qualified to vote under the Constitution and law of the State shall be permitted to vote.

SECTION 17. Question.—The questions submitted to the qualified electors in the election shall be substantially in form as follows: "Shall the Rural Recreational District of Richland County be created?" and "Shall there be issued on behalf of the Rural Recreational District of Richland County, either as single issue or from time to time as several separate issues, not exceeding two hundred thousand dollars of general obligation bonds of the Rural Recreational District of Richland County, whose proceeds shall be expended to defray the cost of acquiring physical education and recreational facilities?" The questions shall be separately stated and each shall be followed by the words

"YES ☐
NO ☐

and with suitable instructions to those voting indicating that those who favor the creation of the District shall deposit a ballot with a check mark in the box opposite the word "YES", while those who oppose the creation of the District shall deposit a ballot with a check mark in the box opposite the word "NO"; and those who favor the issuance of general obligations bonds shall deposit a ballot with a check mark in the box opposite the word "YES", while those who oppose the issuance of general obligation bonds shall deposit a ballot with a check mark in the box opposite the word "NO."

SECTION 18. Polling places.—A polling place for voting in the election shall be located in each voting precinct of Richland County lying wholly within the district.

SECTION 19. Notice.—Notice of the holding of such election shall be given by the commissioners of election for Richland County by publication thereof in a newspaper published in Richland County and having circulation in the district at least twice. The first advertisement shall appear not less than fifteen days prior to the date of the

election, and the second publication shall appear not more than ten days prior to such election. Such notice shall state:

1. The date on which the election is to be held;
2. The location of the several polling places;
3. The qualifications that are applicable to voting; and
4. The questions to be submitted.

SECTION 20. Results.—As soon as convenient following the election the commissioners of election for Richland County shall canvass the results and certify them within ten days to the Clerk of Court for Richland County, the Richland County Legislative Delegation and to the Secretary of State. Thereafter neither the results of such election, nor the manner of holding the election shall be open to question except by a suit or proceedings instituted within thirty days from the date of the filing of such certified copy of such resolution.

SECTION 21. Saving clause.—If any part of this act shall be held unconstitutional, such unconstitutionality shall not affect the remainder of this act.

SECTION 22. Act 359 of 1953 repealed.—Act No. 359 of 1953 and all other acts and parts of acts inconsistent herewith are repealed.

SECTION 23. Time effective.—This act shall take effect upon approval by the Governor.

Approved the 6th day of June, 1960.

(R1141, H1505)

No. 874

An Act To Provide For A System Of Municipal Government In And For Darlington County; To Create A County Commission And To Provide For Its Membership, Powers And Duties.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. System of municipal government for Darlington County—to be administered by a commission.—There is hereby provided for Darlington County a system of municipal government, which shall be administered by a county commission, as herein constituted, whose powers and duties shall be as hereinafter set forth:

(R456, H1803)

No. 317

An Act To Change The Names Of The Rural Recreational District And Commission Of Richland County And To Amend Item (15), Of Section 51-395.4, Code Of Laws Of South Carolina, 1962, As Amended, Relating To Maintenance And Operation Funds Of The District, So As To Further Provide Therefor.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Name changed.—The names of the Rural Recreational District and the Rural Recreational Commission of Richland County are hereby changed to the Recreation District and the recreation Commission of Richland County.

SECTION 2. Tax levy.—Item (15) of Section 51-395.4 of the 1962 Code, as amended, is further amended to read as follows:

“(15) To levy upon all taxable property in the District a tax of not exceeding five mills per annum to meet the cost of operating and maintaining parks, playgrounds and recreational facilities under its jurisdiction. Such tax shall be levied by the county auditor and collected by the county treasurer who shall keep it in a separate fund applicable solely to the purpose for which it is levied.”

SECTION 3. Time effective.—This act shall take effect upon approval by the Governor.

Approved the 18th day of June, 1969.

(R457, H1828)

No. 318

An Act To Provide That In The Event Any Fire-Fighting Equipment Is Called Outside The City Limits Of Gaffney And Blacksburg Such Trips Shall Be Deemed Emergencies.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Fire-fighting equipment — emergencies.—In any event when the fire-fighting equipment of the Cities of Gaffney and Blacksburg in Cherokee County is called beyond their respective city limits such trips shall be deemed emergencies and such vehicles shall be deemed emergency vehicles.

SECTION 2. Time effective.—This act shall take effect upon approval by the Governor.

Approved the 18th day of June, 1969.

EXHIBIT B

No. 397

(R409, S757)

AN ACT TO AMEND SECTION 6-11-70, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ELECTION OF BOARD MEMBERS OF A SPECIAL PURPOSE DISTRICT, SO AS TO PROVIDE THAT CERTAIN PROVISIONS OF THIS SECTION DO NOT APPLY TO ELECTIONS OF COMMISSIONERS HELD PURSUANT TO ARTICLE 2, CHAPTER 11, TITLE 6; TO AMEND CHAPTER 11, TITLE 6 BY ADDING ARTICLES 2 AND 15 SO AS TO PROVIDE A PROCEDURE BY WHICH ELECTORS RESIDING IN A SPECIAL PURPOSE DISTRICT MAY PETITION FOR A REFERENDUM ON THE QUESTION OF WHETHER THE GOVERNING BODY OF A DISTRICT SHOULD BE ELECTED BY POPULAR VOTE OF THE QUALIFIED ELECTORS OF THE DISTRICT AND A PROCEDURE FOR THE DISSOLUTION OF A SPECIAL PURPOSE DISTRICT AFTER A TWO-THIRDS VOTE OF THE QUALIFIED ELECTORS OF THE DISTRICT VOTING IN THE REFERENDUM; TO AMEND THE 1976 CODE BY ADDING SECTION 6-11-271 SO AS TO CLARIFY THE AUTHORITY OF CERTAIN SPECIAL PURPOSE DISTRICTS TO LEVY MILLAGE AND PROVIDE GOVERNMENTAL SERVICES; AND TO REQUIRE ALL BOND REFERENDUMS SOUGHT BY A DISTRICT UNDER THIS ACT TO BE VOTED UPON IN GENERAL ELECTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Election of board members

SECTION 1. Section 6-11-70(C) of the 1976 Code, as last amended by Act 160 of 1993, is further amended to read:

“(C) The provisions of subsection (A) do not apply to districts in counties that have adopted, by ordinance, uniform election dates for districts within those counties before the effective date of this section. The provisions of subsections (A) and (B) do not apply to districts in which the commissioners are elected pursuant to a petition and referendum provided for in Article 2 of Chapter 11 of Title 6.”

EXHIBIT C

Referendum concerning election of board

SECTION 2. Chapter 11, Title 6 of the 1976 Code is amended by adding:

"Article 2

**Referendum Concerning Whether a Special
Purpose District's Board Should be Elected**

Section 6-11-350. (A) For the purposes of this article, 'special purpose district' or 'district' means any district, including a public service district, created by or pursuant to an act of the General Assembly before March 7, 1973, and to which has been committed before March 7, 1973, any governmental function, including those districts created by special legislation and those districts created by referenda held pursuant to general legislation. This article applies only to those special purpose districts, the governing bodies of which were not, as of January 1, 1997, elected directly by the qualified electors residing in the district. This article does not apply to (1) any special purpose district, the boundaries of which include areas within more than one county, or (2) any special purpose district which, as of April 1, 1998, pursuant to written contract provided one or more of its authorized services to areas outside the State. The referendum authorized in this article must be held on the date of the general election held on the first Tuesday following the first Monday in November in even-numbered years.

(B) The qualified electors residing in a special purpose district may by petition request a referendum on the question of electing the governing body of such district by popular vote of the qualified electors in the district. The petition must contain the referendum question and the names, signatures, addresses, voter registration numbers, and dates of signature of at least fifteen percent of the qualified electors of the district. The petition must contain a geographical description of the boundaries of the district and a map clearly setting out the lines of the district in a county, which must be supplied by the district within thirty days of a request of any elector residing in the district.

(C) The original petition must be delivered to the county board of voter registration in the county in which the special purpose district is located. The board must review each name on the petition to determine if each signature is that of a qualified elector in the district and must verify the number of valid signatures of registered electors contained on

the petition submitted and the number of qualified electors in the district. Signatures dated more than one hundred eighty calendar days prior to the date of the submission of the petition shall be disregarded and shall not be counted toward the fifteen percent requirement pursuant to this section. The board shall notify the clerk of the county governing body and the governing body of the special purpose district of the result of the verification process. A copy of the text of the petition which indicates the date the petition was received by the board must be delivered to the clerk of the county governing body and the governing body of the special purpose district.

(D) The petition must be submitted to the board before August first of an even-numbered general election year to be considered for inclusion on the ballot in that year. Upon receipt of a petition, the board must review and verify or reject the petition by twelve o'clock noon September first. If the petition is verified as complete, the question must be placed on the general election ballot in November of that same year. The costs associated with any referendum held pursuant to this article must be paid by the special purpose district.

Section 6-11-351. The governing body of a special purpose district may by resolution adopted by majority vote of all members of the governing body request a referendum on the question of election of governing body members be held in accordance with the provisions of this article. If adopted, a certified copy of the resolution and a map clearly setting out the lines of the district in the county must be presented to the county election commission prior to August first of a general election held in an even-numbered year in order for the referendum to be held on the date of the general election in November of that year.

Section 6-11-352. The referendum question must read substantially as follows:

Shall the governing body for the (special purpose district) be elected by popular vote of the qualified electors residing in the (special purpose district) for four-year terms in nonpartisan elections during the November general election held in even-numbered years?

Yes ☐No ☐

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word 'Yes', and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word 'No'.

Section 6-11-353. Notice of the referendum must be published by the governing body of the special purpose district at least three times prior to the referendum, including (i) not less than sixty days prior to the date of the referendum, (ii) two weeks after the first date of publication, and (iii) a date not more than fifteen and not less than ten days prior to the date of the referendum. The notice must appear in a newspaper of general circulation within the special purpose district and contain at a minimum the following:

- (1) the full name of the district and its governing body;
- (2) the names, addresses, and telephone numbers of the members of the district's governing body;
- (3) the existing means of appointment of members of the district's governing body;
- (4) the act by which the district was initially created and the year effective;
- (5) a brief description of the governmental services provided by the district;
- (6) a description of the taxing authority of the district, if any, and the limitations on that taxing authority;
- (7) a map showing generally the boundaries of the district;
- (8) a list of precincts and polling places in which ballots may be cast;
- (9) the purpose of the referendum and the question to be presented to qualified electors;
- (10) an explanation of the procedure to be followed for election of members of the district's governing body if the result of the referendum is favorable; and
- (11) other additional information required by the general law of the State relating to notices of elections.

Section 6-11-354. (A) Notwithstanding any other provision of law, in a referendum held pursuant to this article, if a majority of electors from

the special purpose district voting in the election vote in favor of the election of members of the district's governing body, the county election commission must conduct nonpartisan elections as provided in this section. Nothing in this article shall bar any appointed member of the district's governing body from becoming a candidate for an election to the district's governing body in any election.

(B) On the first Tuesday following the first Monday in November in the year immediately following the year of the referendum, the voters shall elect commissioners for all seats on the district's governing body. Candidates must file a statement of intention of candidacy with the county election commission. Except for the initial election of commissioners as provided in subsection (C), all commissioners must be elected on an at-large basis for terms of four years, with terms staggered so that a simple majority of the commissioners are elected in a general election in an even-numbered year, and the remaining commissioners are elected at the next preceding and following general elections in even-numbered years. The terms of office of commissioners whose seats are subject to contest in a general election shall expire fourteen days following the general election.

(C) For the initial election of commissioners, all seats shall be considered vacant. From among the commissioners elected in the initial election, a simple majority thereof shall serve terms which expire fourteen days following the general election held three years after the initial election. Those commissioners entitled to serve the initial three-year terms shall be those commissioners equal in number to a simple majority of the membership who received the highest number of votes cast in the initial election. The remaining commissioners shall serve terms which expire fourteen days following the general election held the year following the initial election.

(D) The county board of elections shall conduct and supervise the elections for commissioners in the manner governed by the election laws of this State, *mutatis mutandis*. Vacancies must be filled in the manner provided in Section 7-13-190."

Dissolution of special purpose districts

SECTION 3. Chapter 13, Title 6 of the 1976 Code is amended by adding:

"Article 15

Dissolution of
Special Purpose Districts

Section 6-11-2010. For purposes of this article:

(1) 'Special purpose district' or 'district' means any district, including a public service district, created by or pursuant to an act of the General Assembly before March 7, 1973, and to which has been committed before March 7, 1973, any governmental function, including those districts created by general or special legislation and those districts created by referenda held pursuant to general or special legislation, the boundaries of which are wholly within a single county and which are not expressly governed by Chapter 9 of Title 4 or Chapter 7 of Title 5.

(2) 'Commissioners of election' means the commissioners of registration and election of a county. In a county where the functions of voter registration and conducting elections are not combined, the petition referred to in Section 6-11-2030 must be filed with the body responsible for voter registration in that county. This body is responsible for taking the action required by Section 6-11-2040 and with the commissioners of election or other body charged by law with conducting elections within the county, which shall undertake all other actions required of the 'commissioners of election' in this article.

Section 6-11-2020. Notwithstanding any other provision of law, a special purpose district may be dissolved in accordance with this article upon a two-thirds vote of the qualified electors of the district voting in the referendum. These votes must be cast at a referendum held in accordance with this article and with the election laws of this State, mutatis mutandis.

Section 6-11-2030. Before the circulation of a petition for consideration by qualified electors of a district, the entity or entities named in the petition as those which shall assume the assets and liabilities of the district upon dissolution and shall provide the services currently provided by the district (each a 'successor provider') must be provided with a copy of the proposed petition. A successor provider may within one hundred twenty days following receipt of such proposed petition adopt a resolution or ordinance, as appropriate under the general law of the State, by which such successor provider agrees, should a referendum held pursuant to this article be successful, to become responsible for the assets and liabilities of the district and to provide the service or services

set forth in the petition upon the dissolution of the district. The resolution or ordinance must affirmatively state that the political subdivision is authorized by law to provide such service or services, and is authorized to and shall, before the dissolution of the district, issue such obligations as are necessary to fully pay or deface all outstanding general obligation bonds, revenue bonds, lease-purchase obligations, and other obligations of the district, except to the extent, if any, that the political subdivision is able to lawfully assume the obligations with the consent of the holder thereof. A certified copy of the resolution or ordinance must be forwarded to the governing body of the district and the party submitting the petition within five days of its adoption. Signatures affixed to a petition before the adoption by each successor provider named in it of a resolution or ordinance, as appropriate, in accordance with this paragraph are of no force or effect.

(1) If the successor provider is a county and the county proposes to finance the provision of one or more services then provided by the district to the area within the district in whole or in part through the levy and collection of ad valorem taxes, the tax district must be established pursuant to the ordinance adopted pursuant to the preceding paragraph, subject to the dissolution of the district. Nothing herein contained shall prevent a county from creating a special tax district pursuant to this article solely for the purpose of payment of debt service on general obligation bonds issued by the county as a successor provider in order to discharge obligations of the district.

(2) In the event that more than one successor provider is named in the petition or resolution of the governing body of the district, the entities so named, before the adoption of a resolution or ordinance as provided above, shall agree in writing as to the division of assets and liabilities of the district, and such agreement must be incorporated by reference into each resolution or ordinance adopted.

Section 6-11-2040. The referendum must be called and held in accordance with this article upon the filing with the commissioners of election for the county in which the district is located a petition conforming with the following requirements:

(1) must contain the name and address of the person clearly printed and the signature of each individual executing the same; and

(2) printed at the top of each page of the petition an explanation of its purpose, which explanation shall contain, at a minimum:

(a) the name of the district proposed to be dissolved;

(b) a statement that the purpose of the petition is to authorize a referendum to be held on the question of the dissolution of the district;

(c) the following inscription: 'This petition shall not become effective unless signed by at least forty percent of the qualified electors in (name of district).';

(d) the services which the district is by law authorized to provide;

(e) the outstanding principal balance of general obligation bonds of the district, the outstanding principal balance of the revenue bonds of the district, the outstanding principal balance of lease-purchase obligations of the district, and an outstanding balance of the total of other obligations of the district; and

(f) if the services are to continue, the name of the entity or entities which shall assume the assets and liabilities of the district upon dissolution and shall provide the services currently provided by the district.

Section 6-11-2050. (A) Upon the filing of a petition, it is the duty of the commissioners of election of a county to:

(1) forward a copy of the petition to the governing body of the district;

(2) ascertain the number of qualified electors residing in the district; and

(3) ascertain that each person named on the petition is a qualified elector shown on voter registration books maintained by the commissioners of election as residing at an address located within the district.

(B) The commissioners of election shall within thirty days of the receipt of a petition deliver to the governing body of the district a certificate showing the number of qualified electors within the district and the number of qualified electors residing in the district that have signed the petition. Signatures on the petition are valid only if:

(1) dated not more than one hundred eighty days prior to the delivery of the petition to the commissioners of election, and

(2) they are of persons ascertained to be a qualified elector residing in the district as shown on the voter registration books.

Signatures on the petition accompanied by illegible names and addresses are void and must be disregarded in determination of the number of qualified electors residing in the district that have signed the petition.

Section 6-11-2060. Upon receipt of the commissioners of election, and if the certificate demonstrates that at least forty percent of the

qualified electors of the district have signed a petition conforming to this article, the governing body of the district shall forward it to each political subdivision which is named by the petition as a successor provider.

Section 6-11-2070. Upon receipt of a petition pursuant to Section 6-11-2050, and provided that the governing body of the district has received all necessary resolutions or ordinances conforming with Section 6-11-2030 from each successor provider, the governing body shall within thirty days of the petition action adopt a resolution by which it authorizes a referendum to be held on the question of the dissolution of the district. The referendum must be held on the date of the general election in November of the even-numbered year if the governing body has received all required resolutions or ordinances and the petition by one hundred twenty days before that election. If all required resolutions or ordinances and the petition are not received by that deadline, the governing body must schedule the referendum for the next following general election.

Section 6-11-2080. The resolution required by Section 6-11-2070 shall also provide for the publication of notice of the referendum in one newspaper of general circulation within the district. The notice of referendum must be published no less than sixty days prior to the referendum, on that date which is two weeks following the initial publication, and once a week for each of the four weeks immediately preceding the week in which the referendum is held. The notice shall contain matters required by the general election laws of the State and shall also include the following information:

- (1) the name of the district proposed to be dissolved;
- (2) a statement that the purpose of the referendum is to determine whether the district should be dissolved;
- (3) a general description of the boundaries of the district;
- (4) the names, addresses, and telephone numbers of each current member of the governing body of the district;
- (5) the services which the district is by law authorized to provide;
- (6) the outstanding principal balance of general obligation bonds of the district, the outstanding principal balance of the revenue bonds of the district, the outstanding principal balance of lease-purchase obligations of the district, and the outstanding principal balance of other obligations of the district;
- (7) the name of the political subdivision or subdivisions which shall assume the assets and liabilities of the district upon dissolution and, if

services are to be continued, shall provide the services currently provided by the district;

(8) where applicable, a statement that a copy of the written agreement of the successor providers as to the proposed distribution of assets and liabilities is available at the office of the principal administrator of each successor entity and at the principal office of the district;

(9) where applicable, a statement that in the event the district is dissolved, the area formerly included within the district must be, without further action or approval, designated as a special tax district of the county in which the district is located for the provision of the service or services presently provided by the district for which the county is the successor provider, that the district will be subject to an annual tax for operations and maintenance of it not exceeding the amount as provided in the ordinance of the county enacted pursuant to Section 6-11-2060, and for debt service on general obligation bonds issued to finance the provision of the service or services; and

(10) the question to be voted upon in the referendum.

Section 6-11-2090. The referendum must be conducted by the commissioners of election for the county in which the district is located and held on the general election date in November of the next even-numbered year pursuant to Section 6-11-2070.

Section 6-11-2100. (A) The question to be voted upon in the referendum must be substantially similar to one of the following:

Must (name of district) be dissolved and its assets and liabilities distributed to (successors providers), upon the condition that (successor provider) must upon dissolution of the district be responsible for providing (name of service) that (additional successor provider) must upon dissolution of the district be responsible for providing (name of service)?

IN FAVOR OF DISSOLVING

(name of district) _____

OPPOSED TO DISSOLVING

(name of district) _____

Must (name of district) be dissolved and upon the dissolution the area formerly included within (name of district) constitutes a special tax district of _____ County for the purpose of providing (name of services provided by district to be provided through tax district) in which special tax district there must be levied not exceeding _____ mills annually for the operation and maintenance thereof?

IN FAVOR OF DISSOLVING
(name of district) _____

OPPOSED TO DISSOLVING
(name of district) _____

(B) Suitable instructions for completion of the ballot must be provided on it.

Section 6-11-2110. The commissioners of election for the county in which the referendum is held shall certify the results of the election to the governing body of the district. The question presented in referendum shall be considered approved if at least two-thirds of the qualified electors of the district voting in the referendum vote in favor of it. The commissioners of election shall also cause the certificate of results of the referendum to be filed with the clerk of court for the county in which the district is located within five days of the date of the certification. The results of the referendum and the validity of those actions taken precedent to it are not open to question except by action instituted within thirty days from the filing of the certificate of results.

Section 6-11-2120. If the question presented in the referendum is approved as provided in Section 6-11-2110, the governing body of the district shall declare the results of the referendum in writing and within ten days following the referendum provide certified copies of the declaration of results to each successor provider.

Section 6-11-2130. Upon receipt of a certified copy of the declaration of results of the referendum, a successor provider must adopt a resolution or ordinance, as appropriate, confirming its prior action in agreeing to serve as successor provider within ninety days of receipt of a certified declaration of results. This confirming resolution or ordinance

must be forwarded to the governing body of the district and to every other successor provider.

Section 6-11-2140. When each successor provider has adopted a confirming resolution or ordinance, the governing body of each and of the district shall agree to an orderly winding up of the affairs of the district. Dissolution is not effective before the time as all general obligation debt, revenue debt, lease-purchase obligations, and other obligations, except those obligations which a successor provider may lawfully assume with the consent of the holder thereof, have been paid in full or legally defeased.

Section 6-11-2150. The cost of any referendum held under the provisions of this article and all costs of dissolution must be borne by the district, provided, however, that the district is not responsible for any costs associated with the preparation or circulation of any petition calling for a referendum under this article."

Authority to levy millage clarified

SECTION 4. The 1976 Code is amended by adding:

"Section 6-11-271. (A) For purposes of this section, 'special purpose district' means any special purpose district or public service authority, however named, created prior to March 7, 1973, by or pursuant to an act of the General Assembly of this State.

(B)(1) This subsection applies only to those special purpose districts the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage up to or not exceeding a given amount and did impose this levy in fiscal year 1997-98.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection, beginning with the levy for fiscal year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in fiscal year 1998.

(C)(1) This subsection applies only to those special purpose districts, the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage without limit as to amount.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection, beginning with the levy for fiscal

year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in that special purpose district for operations and maintenance for fiscal year 1998.

(D) Notwithstanding any other provision of law, any special purpose district within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, may request the commissioners of election of the county in which the special purpose district is located to conduct a referendum to propose a modification in the tax millage of the district. Upon receipt of such request, the commissioners of election shall schedule and conduct the requested referendum on a date specified by the governing body of the district. If approved by referendum, such modification in tax millage shall remain effective until changed in a manner provided by law.

(E)(1) All special purpose districts located wholly within a single county and within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, are authorized to modify their respective millage limitations, provided the same is first approved by the governing body of the district and by the governing body of the county in which the district is located by resolutions duly adopted. Any increase in millage effectuated pursuant to this subsection is effective for only one year.

(2) Any millage increase levied pursuant to the provisions of item (1) of this subsection must be levied and collected by the appropriate county auditor and county treasurer."

Referendums must be voted upon in general elections

SECTION 5. All bond referendums sought by the district under this act must be voted upon in general elections.

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Approved the 10th day of June, 1998.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
IN THE FIFTH JUDICIAL CIRCUIT
Civil Action No. 2017-CP-40-0988

Don Weaver,

Plaintiff,

v.

Recreation District, Recreation
Commission of Richland County
Paul Brawley, as Auditor of Richland
County, David A. Adams as Treasurer
of Richland County,

Defendants.

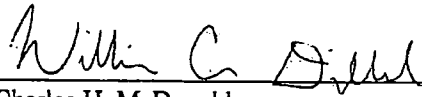
**SUPPLEMENT TO
TRIAL BRIEF OF DEFENDANT
RECREATION COMMISSION
OF RICHLAND COUNTY**

The Defendant Recreation Commission of Richland County ("Recreation Commission") hereby supplements its previously filed trial brief with the attached "Exhibit E". This exhibit provides a summary table of information derived by reference to "Exhibit D" to the trial brief (*South Carolina Special Purpose Districts 2016 Biennial Directory*), regarding certain unelected special purpose districts that, like the Recreation Commission, are funded through ad valorem property tax revenue pursuant to the statute challenged in this action, S.C. Code § 6-11-271. The attached exhibit also includes copies of the legislative enactments authorizing these entities.

[Signature to follow]

Respectfully submitted,

BELSER & BELSER, P.A.

A handwritten signature in dark ink, appearing to read "William C. Dillard, Jr.", is written over a horizontal line.

Charles H. McDonald
William C. Dillard, Jr.
1901 Main Street, Suite 1550 (29201)
Post Office Box 96
Columbia, South Carolina 29202
803-929-0096
*Attorneys for Recreation Commission
of Richland County*

Columbia, South Carolina

September 29, 2017

EXHIBIT E

<u>"Exhibit D" Sec. State Directory Page No.</u>	<u>Special Purpose District</u>	<u>County</u>	<u>Services</u>	<u>Enabling Legislation</u>	<u>"Exhibit E" Page No.</u>
24	Anderson County Fire Protection Commission	Anderson	Fire	Act 294 of 1961	52
31	Metropolitan Sewer Subdistrict Commission*	Anderson/ Greenville	Sanitation, Sewer	Act 687 of 1969	131
40	Broad Creek Public Service District	Beaufort	Sewer, Water	Act 1739 of 1972; Act 575 of 1973	159, 209
40	Burton Fire District	Beaufort	Fire, Rescue, EMS	Act 566 of 1973	206
42	Lady's Island - St. Helena Fire District	Beaufort	Fire	Act 1727 of 1972	156
45	Charleston County Park and Recreation Commission	Charleston	Recreation	Act 1069 of 1968	102
46	Cooper River Park and Playground Commission*	Charleston	Recreation	Act 640 of 1942	1
47	North Charleston District	Charleston	Fire, Street Lighting, Safety	Act 1768 of 1972	178
49	St. Andrews Parish Parks and Playground Commission	Charleston	Recreation	Acts 228 of 1957	241
50	St. John's Fire District Commission	Charleston	Fire	Act 369 of 1959	25
54	Macedonia Fire District	Cherokee	Fire	Act 1043 of 1970	137
57	Chester Fire District*	Chester	Fire, Rescue, EMS	Act 1779 of 1972	197
65	Hartsville Community Center Building Commission	Darlington	Recreation	Act 259 of 1961	48
80	Murrels Inlet - Garden City Fire District	Georgetown/ Horry	Fire, Rescue, EMS	Act 876 of 1966; S.C. Code 4-23-10, et seq.	84, 89
83	Boiling Springs Fire District	Greenville	Fire	Act 916 of 1970	133
94	Pelham-Batesville Fire District	Greenville/ Spartanburg	Fire, Rescue, EMS	S.C. Code 4-23-210, et seq.	141
126	Irmo-Chapin Recreation Commission	Lexington	Recreation	Act 329 of 1969	117
127	Irmo Fire District	Lexington	Fire, Rescue, Safety	Act 387 of 1963	69
128	Lexington County Rural Recreation District	Lexington	Aging, Recreation	Act 1201 of 1968	106

* - Enabling legislation required county council approval of tax levy

142	East Richland County Public Service District	Richland	Sewer, Water	Act 1114 of 1960; Acts 825 and 826 of 1971	35, 154
148	Converse Area Board of Fire Control	Spartanburg	Fire, Rescue	Act 178 of 1963	65
148	Croft Fire District	Spartanburg	Fire, Rescue	Act 879 of 1960	31
149	Drayton Fire District	Spartanburg	Fire	Act 321 of 1969	113
150	Glendale Area Fire District	Spartanburg	Fire	Act 388 of 1969; Act 163 of 1973	127, 204
150	Glenn Springs - Pauline Rural Fire Department	Spartanburg	Fire	Act 768 of 1973	213
152	Holly Springs Volunteer Fire District	Spartanburg	Fire	Act 551 of 1971; Act 1958 of 1972; Act 890 of 1976	150, 200, 222
154	New Prospect Area Fire District	Spartanburg	Fire, Rescue	Act 908 of 1964; Act 1399 of 1966	77, 99
155	North Spartanburg Area Fire and Emergency Services District	Spartanburg	Fire, Rescue	Act 1005 of 1964	80
156	Pacolet Station Fire District	Spartanburg	Fire	Act 898 of 1966	93
157	Reidville Area Fire District	Spartanburg	Fire, Rescue	Act 769 of 1973	217
158	Roebuck Fire District	Spartanburg	Fire, Rescue	Act 1196 of 1958	18
160	Startex Fire Department	Spartanburg	Fire	Acts 248 and 340 of 1969	110, 124
162	Westview - Fairforest Fire District	Spartanburg	Fire	Act 1195 of 1958	13
163	Whitney Area Fire District	Spartanburg	Fire	Act 856 of 1964	73
168	Lockhart Fire District	Union	Fire	Act 233 of 1971	146

* - Enabling legislation required county council approval of tax levy

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2017-CP-40-00988
Appellate Case No. 2019-00920

Don Weaver Appellant,

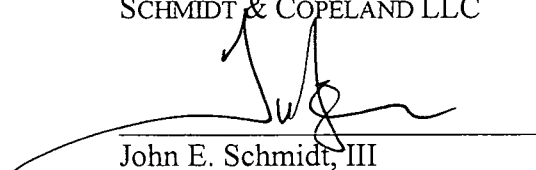
vs.

Recreation District, Recreation Commission of Richland County, Paul Brawley, as
Auditor of Richland County, David A. Adams as Treasurer of Richland County ... Respondents.

CERTIFICATE OF COUNSEL

I certify that the Record on Appeal contains all material proposed to be included by any
of the parties and not any other material.

SCHMIDT & COPELAND LLC



John E. Schmidt, III
Melissa J. Copeland
1201 Main Street, Suite 1100
Columbia, SC 29201
803.748.1342 (phone)
803.748.1210 (fax)
John@SchmidtCopeland.com
Missy@SchmidtCopeland.com

Attorneys for Appellant

Columbia, South Carolina
October 23, 2019