

MEMORANDUM

TO: SPD Board
FROM: Kelly Smith
DATE: July 8, 2005
SUBJECT: Policy Fund Legal Action on Statewide Issue

Policy Fund Support to Challenge Constitutionality of Local Legislation Passed by the General Assembly

The procedure for the General Assembly to pass local legislation may work fine for many issues but for the Special Purpose Districts it creates problems for bond issues and governance. In 1973 the Supreme Court of South Carolina ruled in the case Knight vs. Salisbury, the General Assembly did not have the authority because of Home Rule to pass single county legislation. Today the General Assembly continues to pass local legislation even though such legislation has been declared unconstitutional. The SPD's have been asked to participate in a legal action to reaffirm that local legislation is not constitutional.

During the past session a number of bills were introduced and some passed through the local legislation procedure to devolve the appointment of SPD Commissioners from the Legislative Delegation to County Council or to change the commissioner appointments. In the past, many local bills were introduced to fast track the legislative process, but few passed. With the passage of bills this year a serious precedent is being set, which could jeopardize district's bonding and commissioner stability statewide.

Because these bills have statewide impact, the Association has been requested through the policy fund to support legal action to challenge the local act passed by the General Assembly, which devolve the appointive power of the Legislative Delegation to county council. Because legal action will be initiated Monday of next week the Executive Committee has been polled and approves funding up to \$5000.00 from the policy fund for the action. As a board member, if you have objection to this action please contact Association Office in response to this e-mail or call 1-800-344-4518 to express your objection immediately.