Home rule power and special districts

Number: AGO 74-28

Date: November 05, 1998

Subject:
Home rule power and special districts

RE: SPECIAL DISTRICTS NOT POSSESSED OF HOME RULE POWERS TO AMEND OWN CHARTER

To: Raymond J. Moudry, Representative, 79th District, West Palm Beach

Prepared by: Jan Dunn, Assistant Attorney General

QUESTION:

Is the South Lake Worth Inlet District subject to the provisions of Ch. 71-14 or Ch. 73-129, Laws of Florida?

SUMMARY:

The South Lake Worth Inlet District is not subject to the provisions granting home rule powers to counties and municipalities under Ch. 71-14 or Ch. 73-129, Laws of Florida. Amendments to the district's enabling statutes may be effected only by the State Legislature.

The South Lake Worth Inlet District, a special taxing district, was created by Ch. 7080, 1915, Laws of Florida, to carry out a restricted, specialized governmental function or purpose and not for general community government. It is an autonomous, separate legal entity created by statute. It is headed by an elective governing body which is independent and separate from any county or municipal government. The district is a governmental agency of the state for certain definite purposes having only such authority as is delegated to it by law. Forbes Pioneer Boat Line v. Board of Com'rs. of Everglades Drainage Dist., 82 So. 346 (Fla. 1919); AGO's 073-374, 073-314, 071-95, and 069-130. The South Lake Worth Inlet District is neither a county, a municipality, nor an agency thereof. Chapters 71-14 and 73-129, Laws of Florida [s. 125.01 and Ch. 166, F. S.], which give home rule powers to counties and municipalities, do not apply to this special district. *Accord*: Attorney General Opinion 073-443.

Since the South Lake Worth Inlet District is a creature of the legislature and possesses only the powers granted to it in its enabling statute (or those necessarily implied in order to carry out its powers) and since there appears to be no authority in Ch. 7080, *supra*, or in any of its amendatory statutes which would allow the district to in any way amend its enabling statute, it must be concluded that the district may not amend its enabling statute (charter). Only the State Legislature may effect any change in such statutes.

Your question is, therefore, answered in the negative.