

1983 WL 181913 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 13, 1983

***1 In re: H. 3108, R-189**

The Honorable Richard W. Riley
Governor
The State House
Columbia, SC 29211

Dear Governor Riley:

You have asked for an opinion as to the constitutionality of the above-referenced bill which would provide for the funding of the proposed Defender Corporation of Allendale, Hampton, and Jasper Counties. It is our opinion that the bill is most probably unconstitutional.

[Art. III, § 34\(IX\), of the South Carolina Constitution](#) prohibits special legislation ‘where a general law can be made applicable.’ This bill would be a special law for Allendale, Hampton, and Jasper Counties requiring those three counties to appropriate county funds for the operation of the proposed Defender Corporation. A general law already exists to provide for funding such Defender Corporation by the Judicial Department of the State. [§ 17-3-70, Code of Laws of South Carolina](#), 1976 (1982 Cum. Supp.). Since a general law can be made applicable, it would appear that this bill would violate [Art. III, § 34\(IX\), of the Constitution](#).

In addition, the bill would be a special law relating to the powers, duties, functions, and responsibilities of Allendale, Hampton, and Jasper Counties, requiring them to appropriate moneys as directed by the board of directors of the Defender Corporation. [Art. VIII, § 7, of the South Carolina Constitution](#) prohibits special laws for a specific county. [Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 \(1976\)](#). This would be a special law for these three counties and would thus violate [Art. VIII, § 7, of the Constitution](#). The violation can be clearly seen in that the act would compel the three county councils to appropriate a sum of money determined by some other entity, namely, the board of directors of the Defender Corporation. Clearly, a ‘conflict would exist between the power of the General Assembly [as exercised in this bill] and the power of the county government [to control its own budget].’ [Supra at 272, 206 S.E.2d at 878](#). For these reasons it is our opinion that the bill would most probably be unconstitutional.

Sincerely yours,

David C. Eckstrom
Assistant Attorney General

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