

1975 WL 28893 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 5, 1975

*1 The Honorable James B. Edwards
Governor
Columbia, South Carolina

Dear Governor Edwards:

You have requested my opinion as to the validity of Section 11 of the General Appropriations Act for the year 1975-76, which has for its stated purpose:

‘Restructuring of Governing Bodies of Anderson and Greenville Counties.’

Section 11 provides that the governing bodies in Anderson and Greenville Counties shall have its members elected from each of the House of Representative's Districts whose population is totally or mostly within their respective counties. The Act fixes the terms of office of members, provides certain procedural requirements, and vests in each of the respective bodies all powers and duties held by them prior to the commencement of the initial terms of members.

It is my opinion that Section 11 is in violation of Article VIII, Section 7, of the Constitution of this State. This constitutional provision requires that the General Assembly provide by general law for the structure, organization, powers, duties, functions, and responsibilities of counties and provides that ‘no laws for a specific county shall be enacted —.’

In my opinion, Section 11 is a special, and not a general law. It is obviously not designed to form a basis for compliance with the constitutional mandate of Article VIII, Section 7, and by the terms of Article VIII, Section 1, all political subdivisions must continue as they existed on the date of the ratification of Article VIII until their form of government is altered by general law, in compliance with the constitutional provision.

The fact that Section 11 is applicable to more than one county does not, in my opinion, have the effect of making it a general law, as contemplated and required by Article VIII, Section 7.

The case of [Elliott v. Sligh](#), 233 S.C. 161, 103 S.E.2d 923, appears to be precisely in point. In that case a statute applicable to only two counties in the State was stricken as being unconstitutional. The decision was rendered prior to the ratification of Article VIII, but is most persuasive, if not decisive.

In a previous opinion to The Honorable Fred T. Moore, Member, House of Representatives, Anderson County, the conclusions set forth herein were expressed. Reference to Section 12 in this opinion is reflected as Section 11 in the final draft of the Appropriations Act. A copy of this opinion is enclosed herewith.

I therefore advise that, in my opinion, Section 11 of the General Appropriations Act, 1975-76, is in violation of the provisions of Article VIII, Sections 1 and 7, of the Constitution of South Carolina.

Very truly yours,

Daniel R. McLeod

Attorney General

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