

1974 WL 27924 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 20, 1974

*1 Mr. J. Ray Hines
Manager
Abbeville County Research,
Planning and Development Board
Abbeville, South Carolina 29620

Dear Mr. Hines:

Pursuant to our conversation of this date, I am writing to advise you as to two acts bearing Ratification Numbers 1077 and 1175 respectively, of the 1974 South Carolina General Assembly.

This office must take the position that, inasmuch as the two acts have been enacted, they are presumed to be constitutional. We also advise, however, that if, upon the implementation of the acts, an action were to be brought pursuant to the Declaratory Judgments Act, (see, Sections 10-2001 et seq. of the South Carolina Code of Laws, 1962, as amended) the acts would, in our opinion, be unconstitutional under the authority of the South Carolina Supreme Court decision in Knight v. Salisbury, Opinion filed June 17, 1974.

One possibility as to the Act concerning the Abbeville County Fire Protection Commission (R-1077) would be to contact members of your legislative delegation as to the repeal of that statute; thereupon, the governing body of Abbeville County would be empowered to proceed under the authority granted to all counties to provide fire protection services by Act bearing Ratification No. 1361, a copy of which I herewith enclose.

We further advise that the implementation of the Act concerning the Abbeville County Fire Protection Commission would include the implementation of Section 9 thereof, relating to the holding of a referendum.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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