

1981 WL 157982 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 28, 1981

\*1 Honorable Richard W. Riley  
Governor  
State of South Carolina  
Post Office Box 11450  
Columbia, South Carolina 29211

Dear Governor Riley:

By letter of September 24, 1981, you have requested this Office to review two acts, S.622 and S.623, for constitutional weakness.

These Acts reapportion the county governing body of Greenville County and the school districts of Greenville County, respectively.

South Carolina Code of Laws, 1976, Section 4-9-90 specifically authorizes that [a]ll districts shall be reapportioned as to population by the General Assembly within one year of the adoption by the State of each federal decennial census except that the General Assembly may delegate this authority to any county or group of counties.

There is presently awaiting second reading a proposed bill, S.407, which would give the power to reapportion to each county council. As this bill has not passed and as Greenville County has not been delegated the power to reapportion, it would appear the General Assembly pursuant to Section 4-9-90 would be the only body with the power to reapportion the county.

As I stated in an earlier letter of August 26, 1981, addressed to you, only a court of competent jurisdiction could determine if Section 4-9-90 is constitutional; and, that in lieu of such a decision it is presumed to be constitutional.

Therefore, S.622 dealing with the reapportionment of Greenville County would be a proper enactment of the General Assembly pursuant to the statutory provisions of 4-9-90.

The second act reapportions the school districts of Greenville County. As the law is silent as to what entity should reapportion a school district, it would appear that the General Assembly would be the only entity with the authority to reapportion the school districts. It has been held in this State that special laws may be enacted regarding school matters and they will not violate the provisions of [Article III, Section 34 of the South Carolina Constitution](#). [Smythe v. Stroman](#), 251 S.C. 277, 162 S.E.2d 168 (1968).

Therefore, S.623 dealing with the reapportionment of the school districts of Greenville County would also be a proper enactment of law by the General Assembly.

Sincerely,

Treva G. Ashworth  
Senior Assistant Attorney General

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