

1976 S.C. Op. Atty. Gen. 92 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4275, 1976 WL 22895

Office of the Attorney General

State of South Carolina

Opinion No. 4275

March 2, 1976

*1 Honorable Danny M. Bruce
Member
House of Representatives
Spartanburg County
Box 96
Campobello, South Carolina 29322

Dear Mr. Bruce:

You have requested the opinion of this Office as to the constitutionality of Calendar H-3314, a bill which has for its purpose 'to provide that all members of the boards of trustees of school districts shall be elected.' Excepted from the bill are the counties of Allendale, Bamberg and Fairfield.

I advise that, in my opinion, the bill is constitutional. This opinion is based on the case of Moye v. Caughman, et al., decided by the Supreme Court of South Carolina July 16, 1975, which affirmed an act relating to the school boards for Lexington County. The Court held that it did not violate the provisions of Article 8 of the Constitution, the Home Rule Amendment, nor did it violate Article 3, Section 34, of the Constitution, which requires that no special law shall be enacted where a general law can be made applicable.

The Moye decision, in my opinion, is a constitutional basis for the enactment of such legislation.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

AMENDED January 20, 1976

Calendar No. H. 3314

Introduced by REPS. BRUCE, BARKSDALE and LISTER

Printer's No. 284-H. Read the first time January 13, 1976.

A BILL

To Provide That All Members of Boards of Trustees of School District Shall Be Elected.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Notwithstanding any other provision of law, all members of boards of trustees of the school districts of the State shall be elected by the registered electors of the particular district. The present members of boards of trustees who are appointed shall continue to serve until the expiration of the term for which they were appointed. Their successors

shall be elected in elections to be provided for by the commissioners of election of the county of which the particular district is composed. Such elections shall be scheduled so that elected members shall assume office at the time the terms of appointed members expire.

Provided, however, that the provisions of this act shall not apply to Allendale and Bamberg counties.

Provided, however, that the provisions of this act shall not apply to Fairfield County.

SECTION 1A. The provisions of this act shall not apply to Dillon County.

SECTION 2. This act shall take effect upon approval by the Governor.

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