

1976 S.C. Op. Atty. Gen. 93 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4278, 1976 WL 22898

Office of the Attorney General

State of South Carolina

Opinion No. 4278

March 3, 1976

***1 Re: Proposed Act Repealing Sections 21–4079 and 21–4080, S. C. Code of Laws**

Representative David F. McInnis

State House

Columbia, South Carolina

Dear Mr. McInnis:

You have requested that we provide you with our opinion regarding the constitutionality of a bill which, if enacted, would provide for the election of three school trustees from single member districts within Sumter County, the appointment of three school trustees from each of the election districts by the Governor and the appointment of one school trustee from the county at large by the Governor.

The General Assembly is not precluded from changing the method of electing members of the boards of trustees of any school district in South Carolina. Neither Article VIII, Section 7 nor Article III, Section 34, subdivision ix of the S. C. Constitution would invalidate the proposed legislation. See, [Moye v. Caughman](#), 265 S.C. 140, 217 S.E.2d 36 (1975).

As to the provision which prescribes that three of the school trustees are to be elected from election districts, we do not discern any facial unconstitutionality. Presumably, the election districts which the proposed act would create are substantially equal in population; if not, the election of school trustees from such districts would be, of course, unconstitutional as violative of the ‘one man, one vote’ principle. See, [Hadley v. Junior College District](#), 397 U.S. 50, 25 L.Ed.2d 45 (1970); [Abate v. Mundt](#), 403 U.S. 182, 29 L.Ed.2d 399 (1971).

We do not feel, furthermore, that the requirement that school trustees be appointed from the election districts and from the county at large is violative of any constitutional provision, State or federal. The United States Supreme Court recognized in [Sailors v. Kent Board of Education](#), 387 U.S. 105, 18 L.Ed.2d 650 at 653 (1967) that local officers who are non-legislative in character may ‘be chosen by the governor, by the legislature or by some other appointive means rather than by an election.’

The act, therefore, in our opinion, is not violative, at least on its face, of any State or federal constitutional provision.

Best wishes,

Karen LeCraft Henderson

Assistant Attorney General

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