

1972 WL 25279 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 14, 1972

***1 Re: Pollution Control Authority (Constitutionality of Senate Bill No. S.974 Providing for the Approval of Solid Waste Programs in Williamsburg County)**

H. J. Webb, Ph.D.
Executive Director
Pollution Control Authority
P. O. Box 11628
Columbia, South Carolina 29211

Dear Dr. Webb:

By letter of April 10, 1972, you requested an opinion on the constitutionality of the above-identified Bill. This Bill provides as follows:

Section 1—Notwithstanding any provisions of law, whether statutory or by administrative rule or regulation, in Williamsburg County permissible solid waste disposal systems shall not be required to be submitted to the Pollution Control Authority or the State Health Department before July 1, 1973.

The South Carolina Constitution provides in Article III, Section 34 IX that the General Assembly shall not enact a special law where a general law can be made applicable. The South Carolina Supreme Court in considering this provision has said that ‘While it is impossible to lay down any general rule by which to determine whether a special or local statute comes within the constitutional inhibition now under discussion, there can be no doubt about the applicability of the inhibition in that class of cases, such as the present, where the record discloses no peculiar local conditions requiring special treatment, and where there is in force a statute of statewide operation on the subject with which the special act seeks to deal on behalf of a particular county.’

Here, general laws have been passed vesting the Pollution Control Authority of South Carolina and the State Board of Health with power to promulgate rules and regulations with reference to solid waste programs throughout the State. See Sections 63-195.1, 63-195.6, 63-195.12, 63-195.13 and 32-8(11) of the Code of Laws of South Carolina (1971 Cum. Supp.). Such regulations have been promulgated by the Pollution Control Authority and State Board of Health and filed with the Secretary of State on May 18, 1971, September 29, 1971, and March 16, 1972.

Accordingly, unless some peculiar local conditions requiring special treatment can be shown to exist, it is my opinion that Senate Bill No. S.974 providing for the approval of solid programs in Williamsburg County is a special law where a general law can be made applicable and its enactment would be a violation of Article III, Section 34 IX of the South Carolina Constitution (1962). See [Sansing v. Cherokee County Tourist Camp Board](#), 195 S.C. 7, 10 S.E. 2d 157 (1940).

Very truly yours,

Edwin B. Brading
Assistant Attorney General

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