

1972 WL 25305 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 3, 1972

***1 Re: H-3182**

The Honorable John C. Wast
Governor
The State House
Columbia, South Carolina

Dear Governor West:

You have requested the opinion of this Office as to the validity of H-3182.

This bill would have the effect of allowing persons who file for election to public office as of 12:00 noon on March 25, 1972, to be qualified candidates for the offices for which they may have filed. The deadline for filing fixed by law is noon, March 20, 1972, but by order of the Circuit Court for the Fifth Judicial Circuit, candidates who file between March 20 and March 25 were declared to be qualified candidates. This order was rendered ineffective by order of the Supreme Court in the County of Darlington and, presumably, it would be so declared invalid in other counties except Fichland County upon proper application therefor.

After the normal filing date expired, a number of candidates filed for office, apparently as a result of Judge Grimball's order, which, at that time, was assumed to be Statewide in effect. The proposed bill would ratify such late filings.

It is the opinion of this Office that the bill is constitutional. It pertains to primaries which are within the jurisdiction of the General Assembly to regulate. The Ex Post Facto effects of the bill do not, in my opinion, present a constitutional infirmity in that the right to public office is not a vested right which is beyond the power of the General Assembly to control. It may abolish an office which is occupied by an incumbent and, by the same process of reasoning, it may likewise regulate the nomination to or candidacy for an office without the impairment of any vested constitutional rights nor does the bill appear to have a discriminatory effect upon any class of persons. It is the opinion of this Office, therefore, that H-3182 is free of constitutional defects.

I advise also that, should this bill become enacted into law, the statute would come within the scope of the Voting Rights Act of 1965, and, therefore, it must be submitted to the Attorney General of the United States for his approval or rejection prior to its being implemented.

Very truly yours,

Daniel R. McLeod
Attorney General

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