

WVH / 20

summary 1145

The State of South Carolina



Office of the Attorney General

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February 27, 1985

The Honorable Thomas E. Smith, Jr.
Senator, District No. 30
402 Gressette Building
Columbia, South Carolina 29202

Dear Senator Smith:

This letter is to advise you that this Office has reviewed the proposed legislation mandating the establishment of county court libraries in light of our opinion of June 19, 1984, discussing the doubtful constitutionality of S.97, R-515 of 1984. It is our opinion that the proposed legislation in the form presented to this Office appears to have overcome the noted constitutional difficulties.

The problem of non-uniformity of additionally imposed court costs, possibly a violation of Article V of the State Constitution, has been cured by the state-wide, uniform imposition of a specified additional cost, rather than leaving the initial question of imposition of costs and then the determination of the amount of such costs to each county. Additionally, the proposed legislation mandates that the county court libraries be established "for the use and benefit of all the citizens of the State," curing the potential problem of contravening Article VIII caused by the language of R-515, "for the use and benefit of the courts in that county."

It must be noted that subsection (E) of section 1 of the proposed legislation, which permits the governing body of a county to fund a library, is an additional source of funding and should not be viewed as an alternative or option to the requirements of subsection (B) applicable to all counties. Should subsection (E) be viewed as an option to (B), the same constitutional problems identified in the opinion of June 19, 1984, could arise again.

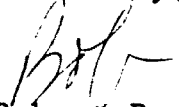
REQUEST LETTER

Continuation Sheet Number 2

To: The Honorable Thomas E. Smith, Jr.
February 27, 1985

I must emphasize that we have examined only the proposed legislation as presented to this Office, and thus this opinion addresses only that document. Subsequent amendments to the proposed legislation could create additional problems which would require additional consideration by this Office at a later date.

Sincerely,


Robert D. Cook
Executive Assistant for Opinions

RDC:djg

cc: Michael N. Couick