

1981 WL 157811 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 8, 1981

***1 RE: Requested Opinion Concerning Pickens County Schools**

The Honorable Larry A. Martin
Member—House of Representatives
418-C Blatt Building
Columbia, South Carolina 29211

Dear Representative Martin:

You have requested an opinion of this office as to whether paragraphs 1 and 2a of § 59-17-20 of the Code of Laws of South Carolina 1976 provide valid means for the creation of a new school district in Pickens County. This matter is discussed at length in a letter to you today from Mr. Paul S. League, Assistant Attorney General. On behalf of this office, Mr. League has concluded that any action to create a new school district in Pickens County under these provisions would be of doubtful constitutionality. My purpose in writing you is to summarize the findings of this office.

Section 59-17-20(1) provides that school districts in this state may be altered or divided by act of the General Assembly relating to one or more counties. Because any legislation devoted solely to the creation of a new school district in Pickens County would ‘incorporate’ such a district, that law would violate Article III, § 34(IV) of the Constitution of South Carolina, 1895, as amended, because it would constitute special legislation for the incorporation of a school district.

Section 59-17-20(2)(a) permits the alteration or division of school districts upon the authorization of a county board of education with the written approval of the senator and house legislative delegation from the county involved. In permitting legislative delegations to review and, possibly, veto decisions of county boards of education, Section 59-17-20(2)(a) may violate the provisions for separation of powers contained in [Article I § 8 of the Constitution](#), as amended. If so, it would not provide a valid means of creating a new school district in Pickens County.

If this office may be of further assistance, please let us know.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

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