

1982 WL 189328 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 14, 1982

*1 John Stephen Hooks, Jr., Esq.
Special Assistant for Legal Affairs
Office of the Governor
The State Capitol
Columbia, South Carolina 29211

Dear Mr. Hooks:

You have inquired in behalf of the Governor whether Section 50 of Part II of the 1981-82 General Appropriations Act (R-574), which purports to amend [Section 12-43-220\(d\), Code of Laws of South Carolina 1976](#), is constitutional. In our opinion, it is not.

[Section 12-43-220\(d\)](#) as originally enacted is identical in language to [Article X, Section 1\(4\), of the South Carolina Constitution](#). This constitutional provision is self-executing, but its codification in [Section 12-43-220\(d\)](#) is not improper for it only restates the organic law. However, the proposed amendment to that section would conflict with the Constitution in two respects: first, by increasing the number of shareholders to fifteen, rather than the ten prescribed by the Constitution; and, second, by eliminating the requirement that such corporation not have more than one class of stock.

The Constitution cannot, of course, be 'amended' by a statute; and in our opinion, Section 50 of Part II of the General Appropriations Act, now pending consideration by the Governor, is invalid.

Yours very truly,

Frank K. Sloan
Deputy Attorney General

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