

1980 S.C. Op. Atty. Gen. 106 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-59, 1980 WL 81942

Office of the Attorney General

State of South Carolina

Opinion No. 80-59

May 23, 1980

***1 In Re: House Bill 3902 (R-508)**

The Honorable Richard W. Riley

Governor

Post Office Box 11450

Columbia, South Carolina 29211

Dear Governor Riley:

House Bill 3902 of the present General Assembly directs the Department of Highways and Public Transportation to close to public traffic Road S-41-310 in Saluda County between the hours of 7:30 a.m., and 3:30 p.m., Monday through Friday.

You request the opinion of this Office as to the constitutionality of this bill.

It is my opinion that this bill would provide unconstitutional legislation for two reasons: (1) It probably constitutes special legislation, in violation of [Article III, Section 34, of the Constitution of this State](#), and (2) it likewise offends the separation of powers provision of the Constitution, in that it constitutes an effort by the General Assembly to exercise functions which are executive in nature.

I call your attention to the fact that the objective of this legislation can be attained under present existing statutory structure. Section 57-3-610(3) provides authority to the Department of Highways and Public Transportation to regulate travel and traffic along State highways. Section 56-5-930 similarly grants the Department the authority to place and maintain necessary traffic control devices on all State highways.

I advise that, in my opinion, House Bill 3902 (R-508) is unconstitutional.

Very truly yours,

Daniel R. McLeod

Attorney General

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