

1980 WL 120928 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 16, 1980

*1 Ms. Susan G. Purdy
Research Analyst
Office of the Greenville County Attorney
Greenville County Courthouse
Greenville, SC 29601

Dear Ms. Purdy:

In a letter to this Office you questioned whether the provisions of [Section 14-7-1370, Code of Laws of South Carolina, 1976](#), may be construed as local legislation for Greenville County and may, therefore, be amended by the Greenville County Council.

As to any possible amendment of special legislation by the County Council, I presume you are referencing that provision of the 'home rule' legislation which appears in the Editor's Note to [Section 4-9-10, Code of Laws of South Carolina, 1976](#), and which states:

'(a)ll operations, agencies, and offices of county government, appropriations and laws related thereto in effect on the date the change in form becomes effective shall remain in full force and effect until otherwise implemented by ordinance of the council pursuant to this act. Provided, however, that county councils shall not enact ordinances in conflict with existing law relating to their respective counties and all such laws shall remain in full force and effect until repealed by the General Assembly, or until January 1, 1980, whichever time is sooner, . . .'

As to your question of whether the provisions of [Section 14-7-1370](#) may be construed as local legislation and may, therefore, be amended by the County Council pursuant to the referenced 'home rule' provision, in the opinion of this Office, the provisions of [Section 14-7-1370](#) should be construed as general legislation with special provisions as to particular counties. It would appear that such legislation was enacted pursuant to Article III, Section 34, Subdivision X of the South Carolina Constitution, which states:

'(t)he General Assembly shall forthwith enact general laws concerning said subjects for said purposes, which shall be uniform in the operations: Provided, That nothing contained in this section shall prohibit the General Assembly from enacting special provisions in general laws.' (Emphasis added.)

It would appear, therefore, that the provisions of [Section 14-7-1370](#) may not be amended by the County Council as otherwise provided by the referenced 'home rule' provision.

Further support for the above finding may be found in [Article VIII, Section 14 of the South Carolina Constitution](#). The South Carolina Supreme Court in [Knight v. Salisbury, 206 S.E.2d 875 \(1974\)](#) determined that pursuant to [Article VIII](#), 'home rule' was to be given to the counties. However, referenced [Section 14 of Article VIII](#) provides:

'(i)n enacting provisions required or authorized by this Article, general law provisions applicable to the following matters shall not be set aside: . . . (4) the structure for and the administration of the State's judicial system; . . .'

Therefore, it may be suggested that pursuant to such provision, counties would be prohibited from amending general law provisions which provide for the compensation of jurors in circuit court.

*2 If there are any questions concerning the above, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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