

1977 S.C. Op. Atty. Gen. 40 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-38, 1977 WL 24381

Office of the Attorney General

State of South Carolina

Opinion No. 77-38

February 1, 1977

*1 Mr. George C. Leventis
Director of Research
Education and Public Works Committee
House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Leventis:

Your letter of January 25, 1977, requests my opinion upon the constitutionality of H-2047, a bill which has for its purpose: 'To Provide that All Members of Boards of Trustees of School Districts Shall Be Elected and to Provide Exceptions for Certain Counties.'

The excepted counties are three in number; in all other counties it is proposed that boards of trustees of the school districts be elected.

It is my opinion that proposed legislation would be constitutional.

I base this opinion upon the conclusions of [Moye v. Caughman](#), 265 S.C. 140, 217 S.E.2d 36, in which the Supreme Court recognized that the school districts are not subject to the prohibition against special legislation provided in Article VIII of the Constitution but did not consider the possible application of Article III, Section 34 of the Constitution, which, since 1895, has prohibited special legislation where general law can be made applicable.

It is my opinion that this type of legislation is not prohibited by Article VIII of the Constitution nor is it prohibited by Article III, Section 34, for the reason that the Court considers that the special nature of school districts precludes uniformity of treatment. The Court, moreover, has considered generally that legislation concerning school districts as it relates to statutes of this nature constitutes special provisions of a general law and are therefore not in violation of the constitutional provision.

I therefore advise that, in my opinion, H-2047 has no constitutional impairment.

Very truly yours,

Daniel R. McLeod
Attorney General

A BILL

To Provide that All Members of Boards of Trustees of School Districts Shall Be Elected and to Provide Exceptions for Certain Counties.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Notwithstanding any other provision of law, all members of boards of trustees of the school districts of the State shall be elected by the registered electors of the particular district. The present members of boards of trustees who are appointed shall continue to serve until the expiration of the term for which they were appointed. Their successors shall be elected in

elections to be provided for by the commissioners of election of the county of which the particular district is composed. Such elections shall be scheduled so that elected members shall assume office at the time the terms of appointed members expire.

SECTION 2. The provisions of this act shall not apply to Allendale, Bamberg, Dillon and Fairfield counties.

SECTION 3. This act shall take effect upon approval by the Governor.

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