

1977 WL 37334 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 6, 1977

*1 Honorable William E. Knotts, Jr.
Senator
Barnwell County
15 West Street
Williston, SC 29853

Dear Senator Knotts:

You have requested an opinion from this Office as to whether or not the following provision of Act No. 450 of 1976 [59 STAT. 1439 (1976)] is constitutional:

. . . there shall be a special magistrate for Lexington County who shall be appointed and commissioned by the Governor the Governor upon the recommendation of a majority of the resident members of Lexington County Delegation . . . [Emphasis added.]

Inasmuch as Act No. 450 has been enacted, this Office must take the position that it is presumed to be constitutional until and unless a court of law declares otherwise. If, however, an action were brought pursuant to the Uniform Declaratory Judgment Act [§§ 10-2001 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended], in my opinion, the hereinabove-quoted provision of Act No. 450 would be declared unconstitutional as violative of the following provision of Article V, Section 23 of the South Carolina Constitution of 1895, as amended:

The Governor, by and with the advice and consent of the Senate, shall appoint a member of magistrates . . .

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

1977 WL 37334 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.