

1979 WL 43087 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 26, 1979

*1 The Honorable D. N. Holt
Representative
District No. 112
Box 7093
North Charleston, South Carolina 29406

Dear Representative Holt:

You have requested an opinion concerning the constitutionality of H-2992, a bill to amend Act 1595 of 1972, relating to the Charleston County Park, Recreation and Tourist District (hereinafter District), so as to devolve all powers and duties of the Charleston County Legislative Delegation relative to such District on the Charleston County Council. It is the opinion of this Office that the bill if enacted would constitute special legislation in violation of [Article VIII, § VII of the State Constitution](#).

The District, created in 1972, provides recreational services for almost the entire area of Charleston County. The District was created before the Home Rule Amendment to the Constitution was ratified. However, since the creation of the District, county councils have been given the power under the Home Rule Act to perform that recreation function for their respective counties. [§ 4-9-30\(5\), S.C. CODE](#), 1976. Since this is a function given to the county councils, the Constitution prohibits the General Assembly now from enacting special legislation on that subject for any particular county. [Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 \(1976\)](#). Of course any such legislation enacted before the ratification of the Home Rule Amendment would not be invalidated by that Amendment. [Neel v. Shealy, 261 S.C. 266, 199 S.E.2d 542 \(1973\)](#).

In my opinion, any legislative act transferring powers from the delegation to the county council must be done by general law applicable to all counties or, at the very least, to all counties having a particular form or forms of county government. See [Article VIII, § 7, S.C. CONSTITUTION](#). The bill under consideration here being a special act would, in my opinion, violate [Article VIII, § 7 of the State Constitution](#).

Sincerely yours,

Daniel R. McLeod
Attorney General

1979 WL 43087 (S.C.A.G.)

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.