

1975 WL 29524 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 21, 1975

***1 Re: S 86—To Create a County Council Form of Government for York County and To Repeal Provisions of Law Relating to the Juvenile and Domestic Relations Court for York County**

Honorable James B. Edwards
Governor
State of South Carolina
State House
Columbia, South Carolina

Dear Governor Edwards:

You have requested my opinion concerning the validity of the above Bill which is now before you.

The Bill would create a County Council form of government for York County which would supersede a pre-existing County Council form of government created by Act No. 1244 of 1974, approved August 22, 1974.

In my opinion such legislation would be clearly unconstitutional in that it is prohibited by the provisions of Article 8 of the Constitution of South Carolina. Act No. 1244 of 1974, which the Bill before you would repeal, is subject to the same constitutional objection but that act is the existing law under which the county now functions and under which it must continue to be organized unless and until a court should otherwise declare.

Another portion of S 86 would repeal certain statutes which would have the effect of abolishing the Juvenile and Domestic Relations Court for York County.

Article 5, Section 22, provides:

Notwithstanding the provisions of this article, any existing court may be continued as authorized by law until this article is implemented pursuant to such schedule as may hereafter be adopted.

The construction to be given to this constitutional provision, and which I adopt, is set forth in Act No. 503 approved March 28, 1973 (73 Acts 868):

[This constitutional provision] shall not be construed to mean that a court cannot be terminated by law prior to such implementation.

It is my opinion that the Bill, which must be acted upon by you in its entirety, is unconstitutional in that it is in violation of Article 8 of the Constitution but that a portion contained in the said Bill and relating to the abolition of the Juvenile and Domestic Relations Court of York County could be validly accomplished by separate legislation.

Very truly yours,

Daniel R. McLeod
Attorney General

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