

1975 WL 29164 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 3, 1975

\*1 Representative John Hamilton Smith  
P. O. Drawer D  
Summerville, South Carolina 29483

Dear Representative Smith:

You have requested an opinion as to the constitutionality of proposed legislation changing the method of selecting the Dorchester County Board of Education from that which is provided for in Section 21-101, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, to a single member election district method.

The recent South Carolina Supreme Court decision rendered in Moye v. Caughman, et al., Opinion No. 20064 (filed July 16, 1975), is, in my opinion, dispositive of the question which you have raised. In that case, the Supreme Court upheld a statute altering the method of electing the trustees of the Lexington County school boards, saying:

... Creation of different provisions for school districts does not impinge upon the 'home rule' amendment [Article VIII] because public education is not the duty of the counties, but of the General Assembly. The General Assembly has not been mandated by any constitutional amendment to enact legislation to confer upon the counties the power to control the public school system. To the contrary, the command of new Article XI, Section 3, is 'The General Assembly shall provide for the maintenance and support of a system of the public schools.'

My opinion is that legislation such as you are proposing would be constitutional under the above-cited authority. Cf., Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1974); Thorne v. Seabrook, 264 S.C. 503, 216 S.E.2d 177 (Opinion No. 20030, filed June 10, 1975); Kleckley v. Pulliam, 265 S.C. 177, 217 S.E.2d 217 (Opinion No. 20075, filed August 5, 1975).

With kindest personal regards,

Karen LeCraft Henderson  
Assistant Attorney General

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