

1974 WL 27631 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 12, 1974

*1 Honorable Gilbert E. McMillan
State Senator
402 Colleton Avenue, S.E.
Aiken, South Carolina 29801

Dear Senator McMillan:

Mr. Henry Lake has advised that you request an opinion concerning the validity of legislation which would create the Aiken County Commission for the Handicapped. Such legislation would provide for the composition of that Commission, establish it as a body corporate with all powers incident to corporations, and vest it with authority to conduct a continuing study of the County's needs for all handicapped citizens and to accept grants and gifts from the Federal and State governments, as well as the transfer of property from Aiken County.

It is my opinion that this legislation would be of doubtful validity. It must be emphasized that any opinion in this respect must be made with the reservation that there are no judicial guidelines laid down by the Supreme Court of South Carolina at the present date concerning the application of the local government amendment to the Constitution relating to the prohibition against special laws. It is my view that in order to sustain such legislation, there must be a reasonable and rational reason why such a Commission is needed in Aiken County, as opposed to other counties in the State; in other words, why this type of legislation may not be provided for by general law rather than by special enactment.

While the law with respect to special legislation has been unclear since the ratification of the local government amendment on March 7, 1973, there is, at the present time, a case which will ultimately be decided by the Supreme Court of this State and which may furnish some guidance in the future.

In the meantime, I can only express doubt as to this type of proposed legislation.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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