

1974 WL 27647 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 25, 1974

*1 Honorable Robert C. Lake, Jr.
Senator
Box 245
Whitmire, South Carolina 29178

Dear Senator Lake:

Thank you for your letter of February 20 inquiring as to the validity of H-2652, which has been passed by the House of Representatives.

H-2652 makes certain important changes in the constitution and powers of the County Council of Newberry County which, in turn, was created by Act No. 925 of 1970 (70 Acts 2005). Among these changes are the following: The number of councilmen is increased from five to seven members; H-2652 would provide for election of councilmen at large, whereas Act No. 925 provides for election from the various areas of the County designated in the Act and by the electors of the various districts; the number of councilmen necessary for a quorum is changed from three to four councilmen; the Council is given authority to employ an administrator to serve as secretary of the Council and to perform such administrative duties as may be assigned to him; the powers vested in the Council by virtue of the devolution upon it of the duties formerly performed by the Newberry County Commissioners are deleted; the power of appointment to certain offices in the County is altered; and a limitation is placed upon the amount for which claims against the County may be approved by the County Council. The foregoing powers appear to be the principal ones involved and, in my opinion, they constitute a clear alteration of the powers vested in the County Council by the former and presently existing statute under which County Council functions.

It is my opinion that this Bill is violative of the provisions of Article VIII of the Constitution of this State, ratified on March 7, 1973. It is my opinion that Article VIII prohibits the enactment of special legislation for a county since its date of ratification and that the mandate of that constitutional provision is to require that laws for all counties shall be of general rather than special application. The case of Knight v. Salisbury is presently under appeal to the Supreme Court of South Carolina and will hopefully clarify some of the meaning to be given to Article VIII, but until contrary indications are given by the Supreme Court, it is my opinion that a proposed statute, such as H-2652, is clearly violative of the provisions of the new constitutional amendment.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

1974 WL 27647 (S.C.A.G.)