

1974 WL 27777 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 21, 1974

***1 In Re: House Bill 2875**

Honorable Allen R. Carter
State Senator
Box 5818
North Charleston, South Carolina 29406

Dear Senator Carter:

You have requested the opinion of this Office as to the constitutionality of House Bill No. 2875, with particular reference to consideration of Article VIII of the Constitution of this State.

House Bill No. 2875 provides for an additional Associate Judge for the Family Court of Charleston County.

By letter dated May 15, 1974, this Office advised that there was no constitutional objection apparent to this bill in particular consideration of the provisions of Article V, Section 22, of the Constitution (Judicial Reform).

Considering the application of Article VIII (Local Government), it is my opinion that this constitutional provision does not render House Bill No. 2875 unconstitutional. Article VIII provides that no laws for a specific county shall be enacted. The precise application of this constitutional provision has not been determined by the Supreme Court of South Carolina, although a case is now before that Court which may afford some means of ascertaining the construction to be given it.

It is my opinion that Article VIII relates to the inherent governmental powers of county government, whereas Article V relates to the regulation of the judicial structure of the State. Article VIII, in my opinion, will not affect the validity of the bill. Its validity will ultimately depend, in my view, upon a rational difference being shown which would warrant the addition of an Associate Judge to the Family Court of Charleston by reason of caseload, etc., which is different from that existing in other Family Courts. This is initially a matter of legislative concern.

In my opinion, there is no constitutional objection to House Bill No. 2875, with particular reference to the possible application of the Local Government Amendment to the State Constitution.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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