

1973 S.C. Op. Atty. Gen. 162 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3534, 1973 WL 20994

Office of the Attorney General

State of South Carolina

Opinion No. 3534

June 1, 1973

***1 Proposed legislation which would enable Lancaster County to establish a county work release program similar to those presently in effect in the State Department of Corrections could be passed in the form of a general statute applicable to all counties and, as such, would preclude similar local or special legislation.**

Member
House of Representatives
Lancaster County

You have inquired of this office as to whether or not enabling legislation for the above-captioned programs would have to be in the form of a general law of statewide application or if it could be proposed as special legislation of a local nature only.

Article 3, § 34 of the Constitution of the State of South Carolina controls the enactment of special legislation in this state. Article 3, § 34(IX) provides for certain listed exceptions which do not apply to the question presented, after which it states: In all other cases, where a general law can be made applicable, no special law shall be enacted.

This section specifically prohibits the enactment of any local or special law in any case where a general law can be made applicable.

It would appear that the proposed legislation which would enable Lancaster County to establish a county work release program similar to those presently in effect in the State Department of Corrections could be passed in the form of a general statute applicable to all counties, and, as such, would preclude similar local or special legislation. The language of Article 3 § 34 has been interpreted by our Supreme Court in the cases of *State v. Hammond*, 66 S. C. 219, 44 S. E. 797 and *Thomas v. Macklen*, 186 S. C. 290, 195 S. E. 539 as being clear and unmistakable provisions of the framers of our Constitution and, therefore, to be mandatory and prohibitory, not merely directory or permissive.

One of the many purposes sought to be accomplished by this section is to make uniform the statute of law on like subjects. *Carroll v. York*, 109 S. C. 1, 95 S. E. 121; *Owens v. Smith*, 216 S. C. 382, 58 S. E. (2d) 332.

It is the opinion of this office that in view of the nature of the proposed enactment, the legislation would be special or local legislation which would be prohibited as violative of Article 3, Section 34(IX) of the South Carolina Constitution of 1895. This would require that the Act be passed as a general statute applicable to all counties of the State.

Cf. Art. VIII, Constitution

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