

1973 WL 26868 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 30, 1973

*1 The Honorable Ralph K. Anderson, Jr.
Member
House of Representatives
Box 468
Florence, South Carolina 29501

Dear Mr. Anderson:

Thank you for your letter of August 27 inquiring as to the constitutionality of R-781, particularly in light of Article VIII, Section 7 of the South Carolina Constitution.

R-781 provides for the creation of the Florence City-County Airport Commission, vesting it with the normal powers generally given to such commissions. It is supported by appropriations that may be made by the Florence City and County Councils and such funds as may be otherwise available.

It is my opinion that such legislation is most probably not prohibited by the new constitutional amendment, which prohibits any special laws for a specific county. As this Article has not received construction by the courts of this State, I have couched my opinion in terms of probability, but I believe that the courts are most likely to follow one of two ultimate constructions of this prohibition: It will be restricted to specific forms of government, which will probably not be inclusive of entities, such as an autonomous commission created in R-781, or, and perhaps additionally, the courts will follow the construction previously given to the prior and continuing prohibition against special legislation found in Article III, which is that special legislation may be valid if a general law cannot be made applicable. In either event, it is my view that legislation of this type will be considered as either not relating to a form of government or it will be construed as not being the subject of a general law based upon findings of special needs in a given locality, plus a valid reason for separately treating conditions in that locality in a special manner.

I, therefore, am of the opinion that R-781 is most probably valid and constitutional.

Very truly yours,

Daniel R. McLeod
Attorney General

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