

1973 WL 26895 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 21, 1973

*1 The Honorable Lack G. Fulmer
Member
House of Representatives
Aiken County
The State Capitol
Columbia, South Carolina

Dear Mr. Fulmer:

Thank you for your letter of September 21, 1973, asking my opinion as to whether a bill which you have submitted is in violation of the local government amendment which is now a part of the State Constitution. The bill provides:

In Liken County a referendum shall be held before any public hospital shall be abandoned.

It is my opinion that this statute constitutes special legislation and is therefore violative of the provision of the local government amendment which prohibits the enactment of legislation for a specific county. In my opinion it is also violative of the previous and continuing section of the Constitution (Article 3, Section 34) which prohibits the enactment of a special law where a general law can be made applicable.

The new local government amendment has not received construction by the courts of this State out it is my view that the same construction would probably be applied to it as has been applied to the older provision in many decisions. It is possible also that the local government prohibition against special legislation may be directed only to forms of government but I express no opinion upon this.

In any view it is my conclusion that this bill constitutes special legislation and is prohibited under the older provision and probably under the new provision of the Constitution. I am aware of no special or unusual condition or circumstance which would indicate that Aiken County can reasonably and rationally be authorized to close a public hospital only upon vote of the people. Whereas, other counties are not so limited. For this reason, it is my opinion that the bill is unconstitutional.

Very truly yours,

Daniel R. McLeod
Attorney General

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