

1973 WL 27644 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 26, 1973

*1 The Honorable Norma C. Russell
Member
House of Representatives
92 Nob Hill Road
Columbia, South Carolina 29210

Dear Mrs. Russell:

You have inquired as to the validity of Act No. 254, approved May 31, 1973 (73 Acts 293). This Act amends Act No. 1067 of 1972 (72 Acts 2223) in a number of respects. Act No. 1067 related to the government of Lexington County and was styled, in part, 'An Act To Reconstitute The Board of Commissioners Of Lexington County And To Provide For Its Powers And Duties—.'

Act No. 254 is applicable only to Lexington County and has the effect of amending the functions, duties and powers vested in its form of government by virtue of the 1972 organic act. In my opinion, it most probably violates the provisions of Section 7 of Article VIII of the Constitution of South Carolina which was ratified March 7, 1973. This amendment has not received a construction in this respect by the Supreme Court of South Carolina and therefore any opinion as to its application must be expressed with a recognition that this legal area is yet to be precisely charted by the court. It is my understanding that one possible vehicle is now en route to the Supreme Court which may be a means of obtaining some criteria for a more confident expression of opinion.

Act No. 1067 of 1972 has been the subject of previous opinions by this Office and I am forwarding one of these herewith for your consideration. It is directed to Honorable Sherry Shealy, Member, House of Representatives. The effect of this opinion is to point out that certain powers were granted by the 1972 Act which will be unaffected by the validity or invalidity of the Act about which you inquire.

The above letter was dictated by the Attorney General and has been read to him by telephone during his absence from the State and is forwarded with his approval and direction.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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