

The State of South Carolina



Office of the Attorney General

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May 17, 1993

Mark R. Elam, Esquire
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Office of the Governor
Post Office Box 11369
Columbia, South Carolina 29211

Dear Mr. Elam:

By your letter of May 12, 1993, you have asked for the opinion of this Office as to the constitutionality of S.593, R-90, an act granting power to the Grand Strand Water and Sewer Authority to round up to the nearest dollar a customer's bill and disburse the funds realized from this procedure to charitable purposes, with customer approval. For the reasons following, it is the opinion of this Office that the Act is of doubtful constitutionality.

In considering the constitutionality of an act of the General Assembly, it is presumed that the act is constitutional in all respects. Moreover, such an act will not be considered void unless its unconstitutionality is clear beyond any reasonable doubt. Thomas v. Macklen, 186 S.C. 290, 195 S.E. 539 (1937); Townsend v. Richland County, 190 S.C. 270, 2 S.E.2d 777 (1939). All doubts of constitutionality are generally resolved in favor of constitutionality. While this Office may comment upon potential constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.

The act bearing ratification number 90 of 1993 amends Act No. 337 of 1971, as amended, so as to grant power to the Grand Strand Water and Sewer Authority to round up to the nearest dollar a customer's bill for services rendered by the Authority, and to disburse the funds realized for charitable purposes for which the Authority has to sole discretion to determine. A review of Act No. 337 of 1971 shows that the Grand Strand Water and Sewer Authority is a body politic and corporate whose service area is located

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wholly within Horry County. Thus, S.593, R-90 of 1993 is clearly an act for a specific county. Article VIII, Section 7 of the Constitution of the State of South Carolina provides that "[n]o laws for a specific county shall be enacted." Acts similar to S.593, R-90 have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7. See Cooper River Parks and Playground Commission v. City of North Charleston, 273 S.C. 639, 259 S.E.2d 107 (1979); Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976); Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1974).

Based on the foregoing, we would advise that S.593, R-90 would be of doubtful constitutionality. Of course, this Office possesses no authority to declare an act of the General Assembly invalid; only a court would have such authority.

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

Robert D Cook /cmk

Robert D. Cook
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