

The State of South Carolina

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June 4, 1990

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

Dear Mr. Elam:

By your letter of May 31, 1990, you have asked for the opinion of this Office as to the constitutionality of S.1603, R-639, an act providing the method of appointment of members of the governing body of the Laurens County Health Care System. 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 639 of 1990 provides a mechanism for appointment of members of the governing body of the Laurens County Health Care System. In opinions of this Office dated April 16, 1985; April 17, 1985; and May 23, 1985, this Office noted that the Laurens County Health Care System is a special purpose district located wholly within Laurens County. Thus, S.1603, R-639 of 1990 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.1603, R-639 have been struck down by the South Carolina

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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). See also Op. Atty. Gen. dated April 17, 1985, wherein these constitutional concerns were expressed if a special law should be adopted as to the Laurens County Health Care System by the General Assembly.

Based on the foregoing, we would advise that S.1603, R-639 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:

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