

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

March 14, 1991

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 March 12, 1991, you have asked for the opinion of this Office as to the constitutionality of H.3188, R-21, an act changing the fiscal year of the Greenville County Recreation District. 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 21 of 1991 amends Act No. 1329 of 1968, as amended, relating to the Greenville County Recreation District, to change the District's fiscal year from July 1 to June 30, to January 1 to December 31, effective January 1, 1991. A review of Act No. 1329 of 1968, in section 1, shows that the District is to include the entire area of Greenville County, except for the City of Greenville and such other municipalities as may be excluded. Thus, H.3188, R-21 of 1991 is clearly an act for a specific county. Article VIII, Section 7 of the Constitution of the State of South Carolina

Mr. Elam
Page 2
March 14, 1991

provides that "[n]o laws for a specific county shall be enacted." Acts similar to H.3188, R-21 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 H.3188, R-21 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

Robert D. Cook
Executive Assistant for Opinions