

The State of South Carolina



Office of the Attorney General

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June 16, 1992

Mark R. Elam, Esquire
Senior Legal Counsel to the Governor
Office of the Governor
Post Office Box 11369
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Dear Mr. Elam:

By your letter of June 12, 1992, you have asked for the opinion of this Office as to the constitutionality of H.4880, R-573, an act clarifying the status of the Hartsville Community Center Building Commission. 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 573 of 1992 amends Act No. 259 of 1961, as amended, pertaining to the Hartsville Community Center Building Commission, to clarify that the entity is a special purpose district. A review of the acts concerning the Commission shows that the district covered by the Commission is located wholly within the

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Hartsville Township of Darlington County. Thus, H.4880, R-573 of 1992 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 H.4880, R-573 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). See also Op. Atty. Gen. dated October 21, 1986 (legislation pertaining to the Commission should be general in form), copy enclosed.

Based on the foregoing, we would advise that H.4880, R-573 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
Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions