

3672 Liberty

# The State of South Carolina



## Office of the Attorney General

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June 6, 1989

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

By your letter of June 5, 1989, you have asked for the opinion of this Office as to the constitutionality of H.4107, R-262, an act pertaining to the South Greenville Area Fire District in Greenville County. 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 262 amends Act No. 67 of 1965 relative to the South Greenville Area Fire District in Greenville County, to raise the debt limit of the District to an amount not exceeding five hundred thousand dollars (\$500,000.00). A review of Act No. 67 of 1965 reveals that the District is located within Greenville County. Only a portion of Greenville County is affected by this act. Thus, H.4107, R-262 of 1989 is clearly an act for a specific county. Article VIII, Section 7 of the Constitution of the State of South Carolina

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provides that "[n]o laws for a specific county shall be enacted." Acts similar to H.4107, R-262 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.4107, R-262 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*

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