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# The State of South Carolina



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October 27, 1988

The Honorable Douglas E. McTeer, Jr.  
Member, House of Representatives  
Box 97  
Early Branch, South Carolina 29916

Dear Representative McTeer:

You have requested an opinion as to whether Part II, Sec. 51 of the 1988-89 Appropriations Act might be unconstitutional since it affects only a single type of business. The section enacts a fee for disposal of infectious waste, creates an Infectious Waste Contingency Fund, and provides for the use of the Fund.

Article III, Sec. 34 (IX) of the South Carolina Constitution prohibits the enactment of a special law where a general law can be made applicable. In determining whether an act complies with this constitutional provision, the courts examine the subject matter to see whether the classification is "based upon differences ... natural or intrinsic, and which suggest a reason that may rationally be held to justify the diversity in the legislation." Elliott v. Sligh, 223 S.C. 161, 165-66, 103 S.E.2d 923, 926 (1958), quoting Sirrine v. State, 132 S.C. 241, 128 S.E. 172 (1925).

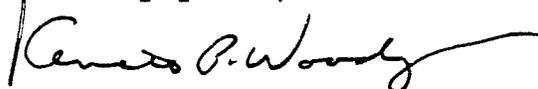
While questions such as this are never free from doubt, a court would most probably find the act in question to be constitutional. "Infectious waste," as it is defined in the statute, is different from normal waste in that it, because of its characteristics, may "cause or significantly contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness." Part III, Sec. 51, 8A (5). It likewise differs from hazardous and nuclear waste because its dangers lie

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in its infectious nature, as opposed to the chemical and radiological hazards created by hazardous and nuclear waste. Since the nature of the hazard is different, a court would most probably find that there is a rational basis for regulating infectious waste by special legislation.

Please let me know if I can provide further information or assistance.

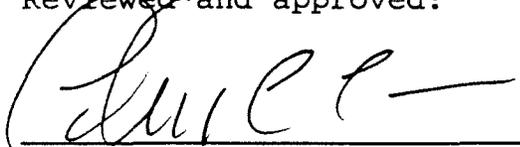
Sincerely yours,



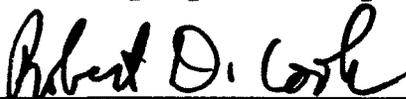
Kenneth P. Woodington  
Senior Assistant Attorney General

KPW:lk

Reviewed and approved:



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