



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

September 26, 2000

The Honorable André Bauer
South Carolina State Senator
Post Office Box 142
504 Gressette Bldg.
Columbia, South Carolina 29202

Re: Informal Opinion

Dear Senator Bauer:

By your letter of August 31, 2000, you have requested an Attorney General's Opinion addressing the constitutionality of certain local legislation. In your letter, you included correspondence from a constituent who believes that House Bills 4410 and 4078 constitute impermissible local legislation. At the outset, I must note that H.4078 is general in nature, and, if enacted, it would be applicable statewide. Accordingly, I will focus my remarks on H.4410. Specifically, this bill would permit Greenville County School District students who participate in interscholastic soccer to participate also in organized soccer that is independent of the school district. According to my research, neither of these bills have been enacted into law; however, in an effort to be of as much assistance as possible, I will attempt to address your constituent's constitutional concerns. For the reasons following, it is my opinion that these bills are entitled to a presumption of constitutionality, though there is some risk that H.4410 could be found to be unconstitutional.

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 (1938); 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.

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This is a letter is an informal opinion only. It has been written by a designated Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion. I trust that it has satisfactorily responded to your inquiry and that you will advise if clarification or additional assistance should be needed.

With kindest regards, I remain

Very truly yours,



Zeb C. Williams, III
Deputy Attorney General

ZCW/an