

L 0127/6707



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES M. CONDON  
ATTORNEY GENERAL

April 30, 1999

The Honorable Shirley R. Hinson  
Member, House of Representatives  
306-A Blatt Building  
Columbia, South Carolina 29211

**RE: Informal Opinion**

Dear Representative Hinson:

You have asked for an opinion of this Office on the constitutionality of Senate Bill 684. You have also asked whether it is permissible to add a question to the upcoming Berkeley County School District bond referendum ballot concerning a one cent increase in sales tax within Berkeley County to raise funds to be used to pay debt service on general obligation bonds. Your questions will be addressed following a discussion of the presumptions of constitutionality by which the courts and this Office are guided.

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.

If passed, the Bill would be constitutional under Article VIII of the South Carolina Constitution concerning Home Rule. "Creation of different provisions for school districts

The Honorable Shirley R. Hinson

April 30, 1999

Page 3

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treatment for the district.

You note that the Bill includes language permitting the addition of a question to the upcoming Berkeley County School District bond referendum ballot concerning a one cent increase in sales tax within Berkeley County to raise funds to be used to pay debt service on general obligation bonds. If passed, the Bill would be controlling in this instance as it is specific to the topic and would be the last expression of legislative will on the topic. See Criterion Insurance Company v. Hoffman, 258 S.C. 282, 188 S.E.2d 459 (1972)(to the extent of any conflict, the specific statute must prevail); Feldman v. S.C. Tax Commission, 203 S.C. 49, 26 S.E.2d 22 (1943)(the last expression of legislative will is the law, where conflicting provisions are found in the same statute, or in different statutes, the last in point of time or order of arrangement prevails). Thus, the provisions of the Bill addressing time and notice for placing a question on ballot would have to be followed.<sup>1</sup>

This letter is an informal opinion only. It has been written by a designated assistant 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.

With kindest regards, I remain

Very truly yours,



Paul M. Koch  
Assistant Attorney General

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<sup>1</sup> If the Bill becomes law, the issue of preclearance would have to be addressed. It is my understanding that it generally takes the United States Department of Justice at least 60 days to consider such a matter.