

# The State of South Carolina



## Office of the Attorney General

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February 24, 1994

The Honorable Joe Wilson  
Senator, District No. 23  
606 Gressette Building  
Columbia, South Carolina 29202

Dear Senator Wilson:

In researching the various issues related to the constitutionality of S.284, about which this Office opined on February 17, 1994, we also examined the issue of revival of judicial remedies that have been time barred. As an addendum to last week's opinion, we wanted to advise you of the results of that research.

We found that the South Carolina Supreme Court has held that the General Assembly cannot extend a time bar that has already passed. U.S. Rubber Co. v. McManus, 211 S.C. 342, 45 S.E.2d 335 (1947); Stoddard v. Owings, 42 S.C. 88, 20 S.E. 25 (1894). We observe that these South Carolina holdings contrast with the general law in other jurisdictions that a legislative body ordinarily has the power to revive a right of action already barred by giving express retroactive effect to an amendment lengthening the statute of limitations. 54 C.J.S. Limitation of Actions § 8 at 32. Our Court has not resolved whether the General Assembly can prescribe a general process for contesting annexations that is applicable to annexations that have become final prior to the effective date of the new process; nor has the court resolved whether the General Assembly can extend the period of time for contesting municipal annexations after the time for challenge prescribed by then-extant law has expired. It is difficult to predict the judicial outcome of these competing principles.

The Honorable Joe Wilson  
Page 2  
February 24, 1994

With kindest regards, I am

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



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