

4785 Liberty

# The State of South Carolina



## Office of the Attorney General

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February 18, 1992

Mark R. Elam, Esquire  
Senior Counsel to the Governor  
Office of the Governor  
Post Office Box 11369  
Columbia, South Carolina 29211

Dear Mr. Elam:

By your letter of February 13, 1992, you have asked for the opinion of this Office as to the constitutionality of H.4192, R-274, an act repealing Act 834 of 1976 relative to the Slater-Marietta Fire District of 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 274 of 1992 repeals Act 834 of 1976, which act authorized the governing body of the Slater-Marietta Fire District in Greenville County to provide police protection within the District. The District is located wholly within Greenville County. Thus, H.4192, R-274 of 1992 is clearly an act for a specific county.

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Article VIII, Section 7 of the Constitution of the State of South Carolina provides that "[n]o laws for a specific county shall be enacted." Acts similar to H.4192, R-274 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). See also Ops. Atty. Gen. dated March 21, 1985 and July 28, 1975 (unconstitutionality of acts relative to the Slater-Marietta Fire District).

Based on the foregoing, we would advise that H.4192, R-274 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:

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