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# The State of South Carolina



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July 10, 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 June 12, 1992, you have asked for the opinion of this Office as to the constitutionality of S.1432, R-519, an act amending Act No. 345 of 1965, relative to the Spartanburg Municipal Civil Service System. For the reasons following, it is the opinion of this Office that the Act is constitutional. An opinion rendered on June 16, 1992, concluding otherwise, is hereby withdrawn and today's opinion substituted therefor.

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 519 of 1992 amends Act No. 345 of 1965, as amended by Act No. 991 of 1966, relative to the Spartanburg Municipal Civil Service System, to provide an exemption from residency and elector requirements for certain applicants of positions under that System, among other things. A review of these acts shows that these acts are applicable only to the City of Spartanburg. Thus, S.1432, R-519 of 1992 is clearly an act for a specific municipality. Article VIII, Section 10 of the Constitution of

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the State of South Carolina provides that "[n]o laws for a specific municipality shall be enacted." Acts similar to S.1432, R-519 have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7, a provision prohibiting the enactment of a law for a specific county. 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. No. 4055 (dated July 24, 1975) and No. 77-129 (dated April 29, 1977), opinions construing Article VIII, Section 10. However, Article III, Section 34 provides in part:

Provided, there is hereby created a civil service commission in the City of Spartanburg for the benefit of the police department, including its chief, and fire department, including its chief, under such terms and conditions as prescribed by the General Assembly.

Thus, the Constitution itself appears to have removed legislation for the Civil Service System of the City of Spartanburg from the purview of Article VIII, Section 10.

Based on the foregoing, we would advise that S.1432, R-519 would be constitutional. We apologize for any inconvenience which the previous opinion may have caused. Please advise if clarification or additional assistance should be needed.

Sincerely,

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

PDP/an

REVIEWED AND APPROVED BY:

  
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Executive Assistant for Opinions