

The State of South Carolina

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June 6, 1989

Mark R. Elam  
Senior Counsel to the Governor  
Office of the Governor  
Post Office Box 11369  
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Dear Mr. Elam:

By your letter of June 5, 1989, you have asked for the opinion of this Office as to the constitutionality of H.4088, R-277, an act amending Act No. 784 of 1964 relative to the Lugoff Water District in Kershaw 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 277 amends Act No. 784 of 1964 and changes the method of selection of the governing body of the Lugoff Water District from appointment by the governor to election by the users of the District. A review of Act No. 784 of 1964 reveals that the District is located within Kershaw County. Only a portion of Kershaw County is apparently affected by this Act. Thus, H.4088, R-277 of 1989 is clearly an

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act for a specific county. 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.4088, R-277 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).

Based on the foregoing, we would advise that H.4088, R-277 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

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REVIEWED AND APPROVED BY:

  
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Robert D. Cook  
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