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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
Columbia, South Carolina 29211

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.4045, R-248, an act creating the South Carolina Future Farmers of America Camp Wildlife Sanctuary in Horry 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 248 would add Section 50-11-925 to the South Carolina Code of Laws (1976, as amended), to create the Future Farmers of America Camp Wildlife Sanctuary in the Little River Neck section of Horry County. Thus, H.4045, R-248 of 1989 is clearly an 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.4045, R-248 have been struck down by the

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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).

In addition, Article III, Section 34 (VI) of the State Constitution prohibits the adoption of local or special laws for the protection of game. This act creates a sanctuary in the described area of Horry County "for the protection of game, birds, and other animals." Thus, the act appears to be violative of Article III, Section 34 (VI) of the State Constitution.

Based on the foregoing, we would advise that H.4045, R-248 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:

Robert D. Cook

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Executive Assistant for Opinions