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The State of South Carolina



Office of the Attorney General

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June 6, 1989

Mark R. Elam
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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 S.804, R-205, an act repealing Act No. 735 of 1936 as to the Newberry County Park Commission. 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 205 of 1989 repeals Act No. 735 of 1936. A review of Act No. 735 of 1936 reveals that the Newberry County Park Commission was created for the development of a county park for the City and County of Newberry. Only Newberry County is apparently affected by this act. Thus, S.804, R-205 of 1989 is clearly an act for a specific county. Article VIII, Section 7 of the Constitution of the State of

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South Carolina provides that "[n]o laws for a specific county shall be enacted." Acts similar to S.804, R-205 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 S.804, R-205 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.

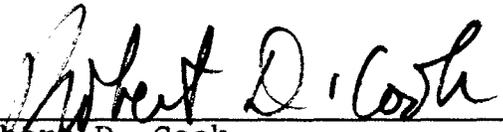
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions