

The State of South Carolina



Office of the Attorney General

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June 6, 1988

Mark R. Elam
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Dear Mr. Elam:

By your letter of June 3, 1988, you have asked for the opinion of this Office as to whether H.2680, R-755 would be violative of the Constitution of the State of South Carolina. This act changes the name of the Clark's Hill-Russell Authority to the Savannah Valley Authority, provides further powers and duties of the Authority, and adds Section 13-9-35 to the Code of Laws of South Carolina, relative to the manner in which these powers and duties may be exercised.

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.

While an argument may be made that the act violates Article I, Section 8 of the State Constitution (separation of powers), it is unclear whether the duties imposed upon the respective legislative delegations would be legislative or executive in nature. For this reason, we cannot say with certainty that the

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doctrine of separation of powers is being violated or that the act is unconstitutional. See also Spartanburg County v. Miller, 135 S.C. 348, 132 S.E. 673 (1924) (performance of duties incidental to legislative powers permissible).

With kindest regards, I am

Sincerely,

Patricia A. Petway
Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
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