

The State of South Carolina



Office of the Attorney General

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June 8, 1988

Mark R. Elam
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Dear Mr. Elam:

By your letter of June 7, 1988, you have inquired as to the constitutionality of proviso number 53.2 of the 1988-89 appropriations act, which proviso states:

In the allocation of the appropriation in this section designated as "DISTRIBUTION TO SUBDIVISIONS AID CNTY-RESTRICTED", for counties where the county delegation is comprised of two members of the Senate and two member of the House of Representatives, and where the county veterans affairs officer was not recommended for the term beginning in 1987, no money shall be expended in that county unless a county veterans affairs officer is recommended to the Director of Veterans Affairs for appointment by a majority of the entire legislative delegation representing that county.

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

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upon potential constitutional problems, it is solely within the province of the courts of this State to declare an act unconstitutional.

In your letter you state that "[i]t seems obvious that this proviso is intended for one county by the nature of circumstances subscribed therein." That being the case, it may be argued that Article VIII, Section 7 of the State Constitution, prohibiting the adoption of an act for a specific county, is contravened. However, the proviso creates an exception to the appropriation to the Department of Veterans Affairs under Section 53, and thus could be viewed as a special provision in a general law, which is permitted by Article III, Section 34(X) of the State Constitution.

Because we cannot say with absolute certainty that this proviso would be unconstitutional, we would resolve the doubt in favor of constitutionality of the proviso.

With kindest regards, I am

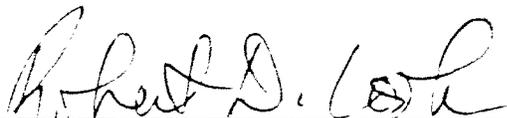
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook
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