



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

December 13, 2004

The Honorable W. Greg Ryberg
Senator, District No. 24
P. O. Box 1077
Aiken, South Carolina 29802

Dear Senator Ryberg:

In a letter to this office you referenced the provisions of S.C. Code Ann. § 10-1-165 (Supp. 2003) which states as follows:

(A) No Revolutionary War, War of 1812, Mexican War, War Between the States, Spanish-American War, World War I, World War II, Korean War, Vietnam War, Persian Gulf War, Native American, or African-American History monuments or memorials erected on public property of the State or any of its political subdivisions may be relocated, removed, disturbed, or altered. No street, bridge, structure, park, preserve, reserve, or other public area of the State or any of its political subdivisions dedicated in memory of or named for any historic figure or historic event may be renamed or rededicated. No person may prevent the public body responsible for the monument or memorial from taking proper measures and exercising proper means for the protection, preservation, and care of these monuments, memorials, or nameplates.

(B) The provisions of this section may only be amended or repealed upon passage of an act which has received a two-thirds vote on the third reading of the bill in each branch of the General Assembly.

In your letter you indicated that the City of North Augusta is attempting to move monuments located in the Wade Hampton Veterans Park from their current locations to the center of the park. You have requested an opinion as to the propriety of the City's attempted actions.

In examining your question, several principles of statutory construction must be kept in mind. First and foremost, in interpreting a statute, the primary purpose is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). A statute must be given a reasonable and fair construction consonant with the purpose, design and policy expressed by lawmakers in the statute. Caughman v. Columbia YMCA, 212 S.C. 337, 47 S.E.2d 788 (1948). Words should be given their plain and ordinary meaning without resort to subtle or forced

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construction to limit or expand the statute's operation. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1990).

A court will reject the meaning of the words of a statute which lead to absurd consequences. Robson v. Cantwell, 143 S.C. 104, 141 S.E. 180 (1928). Moreover, the context of a statute must be examined as part of the process of determining the intent of the General Assembly. Hancock v. Southern Cotton Oil Co., 211 S.C. 432, 45 S.E.2d 850 (1948). It is presumed that the General Assembly intended by its action to accomplish something and not to do a futile thing. State ex rel. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778 (1964).

Based upon these foregoing rules of statutory construction, it is evident that the language of the referenced provision that none of the specified monuments or memorials "...erected on public property of the State or any of its political subdivisions may be relocated, removed, disturbed, or altered", is quite clear in its mandate that no such monument or memorial be relocated, disturbed or moved. As noted in a prior opinion of this office dated July 18, 2001 construing Section 10-1-165 as to Confederate monuments,

(t)he Legislature's purpose was obviously to protect and preserve historic monuments. A principal aim of the statute is to insure that presently existing monuments, including those dedicated to service in the War Between the States, and which are located on property of the State or its political subdivisions may not be relocated, removed, disturbed or altered.

Consistent with the above, it is the opinion of this office that the City of North Augusta is not permitted to move monuments located in the Wade Hampton Veterans Park from their current locations to the center of the park.

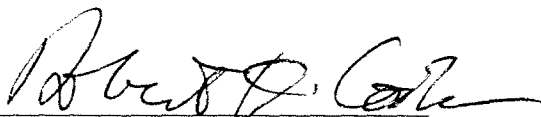
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General