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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

August 19, 1997

The Honorable Vida O. Miller  
Member, House of Representatives  
P.O. Box 481  
Pawleys Island, South Carolina 29585

Re: Informal Opinion

Dear Representative Miller:

Attorney General Condon has forwarded your opinion request to me for reply. You ask for this Office's opinion as to the constitutionality of S.448. In addition, you ask for the opinion of this Office in regards to the constitutionality of legislation introduced by Senator Smith and Representative Thomas which passed the authority to appoint members of several boards in Georgetown County from the county legislative delegation to the county council.

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 (1938); 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.

S.448 would amend Act 733 of 1967, as amended, relating to the Georgetown County Water and Sewer District, so as to provide that the members of the governing body of the Water and Sewer District must reside in single-member districts and be elected at-large for the district in nonpartisan elections. The act further provides for the time of the election and the manner in which the election must be conducted.

*Request Letter*

Representative Miller

Page 2

August 19, 1997

The Georgetown County Water and Sewer District is a special purpose district. Ex Parte Georgetown County Water and Sewer District, 284 S.C. 466, 327 S.E.2d 654 (1985). Additionally, the Water and Sewer District is located wholly within Georgetown County. Thus, S.448 is 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 S.448 have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7. See, Pickens County v. Pickens County Water and Sewer Authority, 312 S.C. 218, 439 S.E.2d 840 (1994); Hamm v. Cromer, 305 S.C. 305, 408 S.E.2d 227 (1991); 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). Thus, in light of Article VIII, Section 7, the constitutionality of S.448 would appear to be doubtful.

In regards to your second question, I am assuming you are referring to Act No. 515 of 1996. This Act devolved the authority for appointments and budgetary approvals for certain offices, boards, and commissions from the joint legislative delegation representing Georgetown County to the governing body of Georgetown County. In an opinion dated March 13, 1997 to the Honorable Yancey McGill, this Office concluded that Act No. 515 of 1996 was of doubtful constitutionality. Of course, it was noted that acts of the General Assembly carry a presumption of constitutionality. It was also noted that it is solely within the province of the courts of this State to declare an act unconstitutional. I have attached a copy of this opinion for your review.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General