

The State of South Carolina

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May 30, 1989

Mark R. Elam
Senior Counsel to the Governor
Office of the Governor
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Dear Mr. Elam:

By your letter of May 25, 1989, you have asked for the opinion of this Office as to the constitutionality of S.591, R-173, an act amending Act No. 879 of 1966 relative to the Laurens County Historic Preservation 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 591 amends Act No. 879 of 1966 to provide that the ten resident electors composing the governing body of the Laurens County Historic Preservation Commission are to be appointed at large by the Governor. While not explicitly stated, the area served by this entity is inferentially the entire area of Laurens County. Gould v. Barton, 256 S.C. 175, 181 S.E.2d 662 (1971). Thus, S.591, R-173 of 1989 is clearly 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.591, R-173 have been struck down by the South Carolina Supreme Court as violative of

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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.591, R-173 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

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Executive Assistant for Opinions