

## The State of South Carolina



## Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE 803-734-3970

June 3, 1988

Burnet R. Maybank  
Counsel to the Governor  
Office of the Governor  
Post Office Box 11369  
Columbia, South Carolina 29211

Dear Mr. Maybank:

By your letter of June 2, 1988, you have asked for the opinion of this Office as to the constitutionality of H.4288, R-730, an act requiring the Charleston County Auditor to levy the millage necessary for the 1988-89 expenses of the Charleston County Parks and Recreation 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.

This act directs the Charleston County Auditor to levy the necessary millage to collect \$3,485,461.00 for the 1988-89 operations of the Charleston County Parks and Recreation Commission. In addition, the Commission is authorized to expend other sources of revenue to meet its budget of \$4,002,156.00 for 1988-89. The Commission is operative only in Charleston County. Thus, H.4288, R-730 of 1988 is clearly an act for a specific county. Article VIII, Section 7 of the Constitution of the State of

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South Carolina provides that "[n]o laws for a specific county shall be enacted." Acts similar to H.4288, R-730 have been struck down by the South Carolina Supreme Court as violative of 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).

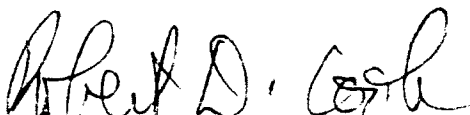
Based on the foregoing, we would advise that H.4288, R-730 would be of doubtful constitutionality. Of course, this Office possesses no authority to declare an act of the General Assembly invalid; only a court would have such authority.

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

  
Robert D. Cook  
Executive Assistant for Opinions