

## The State of South Carolina



## Office of the Attorney General

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June 3, 1988

Mark R. Elam  
Senior Counsel to the Governor  
Office of the Governor  
Post Office Box 11369  
Columbia, South Carolina 29211

Dear Mr. Elam:

By your letter of June 2, 1988, you have asked for the opinion of this Office as to the constitutionality of H.4012, R-723, an act changing the composition of the governing board of the Florence County Fire District, amending Act No. 1817 of 1972. 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 amends Section 2 of Act No. 1817 of 1972 to provide that the board of fire control of the Florence County Fire District will be composed of twelve appointees of the Governor, two from each represented fire department, upon recommendation of a majority of the Florence County Legislative Delegation. From the description of the service area of the District described in Section 1 of Act No. 1817 of 1972, it appears that the service area is wholly within Florence County. Thus, H.4012, R-723 of 1988 is clearly an act for a specific county.

Mr. Elam  
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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 H.4012, R-723 have been struck down by the South Carolina Supreme Court as violative of Article VIII, Section 7. See Cooper River Parks and Play-ground 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.4012, R-723 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*

Robert D. Cook  
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