The State of South Carolina

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April 17, 1985

The Honorable Eugene C. Stoddard
Member, House of Representatives
429-A Blatt Building
Columbia, South Carolina 29211

Dear Representative Stoddard:

Since we advised you by letter of April 16, 1985, on the manner to consolidate two special purpose districts and other related questions, you have advised that Laurens County Council has actually consolidated the districts. The remaining questions concern elimination of either the Laurens Hospital District board or the Clinton Hospital District board, or the reassignment of powers and duties between the boards so that only one actually governs the consolidated district. We would advise that this power also lies with Laurens County Council.

BACKGROUND

By Act No. 458, 1959 Acts and Joint Resolutions, the General Assembly created the Laurens Hospital District and the Clinton Hospital District. The Laurens District at that time took over responsibility for then-existing Laurens County Hospital in the City of Laurens, created by an earlier act of the General Assembly. The Clinton District was established by Act No. 458 to provide additional hospital service in Laurens County, to be located in Clinton. Each of these districts performs a local governmental function in the provision of hospital or medical services. Cf., Gilbert v. Bath, 267 S.C. 171, 227 S.E.2d 177 (1976). The districts have been given corporate powers and duties. See, for example, Section 4 of Act No. 458 as to the Clinton District. Both districts are authorized to issue bonds, incur indebtedness, and levy tax assessments. Provisions for appointment of the governing boards of the district are found in Section 3 of Act No. 458 of 1959

and Section 1 of Act No. 703 of 1973. Considering the attributes usually found in special purpose or public service districts, as discussed in Op. Atty. Gen. dated November 14, 1984, it appears that both the Laurens Hospital District and the Clinton Hospital District are special purpose or public service districts.

CONSOLIDATION OF DISTRICTS

You have advised that the districts have been consolidated by Laurens County Council and that one board must be eliminated or powers of one board altered so that a single governing board actually governs the district as consolidated. Because both districts were created by act of the General Assembly prior to March 7, 1973 and a local governmental function was committed to each prior to March 7, 1973, the provisions of Section 6-11-610 et seq. would be the procedure to follow to effect the necessary changes.

Beginning with Section 6-11-610 of the Code, there are provisions for establishing a new governing board, the determination of the powers of the new board, and so forth. These statutes are enclosed. It would appear that since consolidation has been legally effected, these statutes answer your inquiries about abolishing one of the existing boards or altering powers of the boards.

CONSTITUTIONAL CONSIDERATIONS

An act by the General Assembly to alter the governing boards or powers of the boards may encounter constitutional difficulties. Article VIII, Section 7 of the State Constitution provides that "[n]o laws for a specific county shall be enacted." Because an act for a special purpose district would be an act for Laurens County, a court considering the issue could find such an act unconstitutional. 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).

We would advise, however, that the constitutionality of an act is presumed in all respects. 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). All doubts of constitutionality are generally resolved in favor of constitutionality. Moreover, while this

Office may advise of potential constitutional problems, only a court may actually declare an act unconstitutional.

CONCLUSION

We would advise that the provisions of Section 6-11-610 et seq. of the Code should be followed to alter the governing body of the new district. Moreover, an act of the General Assembly to effect these changes could very well be viewed as unconstitutional if challenged in court.

We hope that this revised advice and the enclosed statutes will be beneficial to you in this matter. Please advise if we may provide additional assistance or clarification.

Sincerely,

Patricia D. Petway

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Assistant Attorney General

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Enclosures

REVIEWED AND APPROVED BY:

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