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The State of South Carolina Carolina #1522



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T. TRAVIS MEDLOCK T. TRAVIS MEDLOCK
ATTORNEY GENERAL ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549 POST OFFICE BOX 11549
COLUMBIA, S.C. 29211 COLUMBIA, S.C. 29211
TELEPHONE 803-758-3970 TELEPHONE 803-758-3970

March 21, 1985 ch 21, 1985

Helen T. Zeigler, Special Assistant for
Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Zeigler:

By your letter of March 20, 1985, you have asked for the opinion of this Office as to the constitutionality of H.2260, R-46, an act permitting the Slater-Marietta Fire District to employ a chief, to compensate firemen, and to increase the amount which the fire control board of the District is authorized to borrow. 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 Slater-Marietta Fire District was created by Act No. 1170, 1968 Acts and Joint Resolutions. The district is governed by the fire control board is completely within Greenville County. Thus, H.2260, R-46 of 1985 is clearly an

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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 H. 2260, R-46, 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, 325 S.E.2d 107 (1979); Torgerson v. Craven, 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. 2260, R-46 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
Executive Assistant for Opinions