THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2014-CP-21-2626
Appellate Case No. 2017-000693

County of Florence and Florence County Council, ... Respondents,

v.

West Florence Fire District, purported to have been created by S.C. Act No. 183 of 2014; the West Florence Fire District Commission, purported to have been created by S.C. Act No. 183 of 2014; David Brown, Dustin Fails, Linda Lang Gipco, Richard Hewitt, and C. Allen Matthews, each in his or her purported official capacity as a member of the West Florence Fire District Commission; and the State of South Carolina . . . . . Defendants,

of whom

West Florence Fire District, the West Florence Fire District Commission, David Brown, Dustin Fails, Linda Lang Gipco, Richard Hewitt, and C. Allen Matthews, each in his or her official capacity as a member of the West Florence Fire District Commission are . . . . . Appellants.

INITIAL BRIEF OF APPELLANTS

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STATEMENT OF THE CASE

On May 28, 2014, Governor Nikki Haley signed into law 2014 Act No. 183 creating the West Florence Fire District (WFFD) as a special purpose fire district for portions of Florence and Darlington Counties. Act No. 183, 2014 S.C. Acts. The special purpose district was located primarily in western Florence County although it included a portion of eastern Darlington County along Interstate 95.

On June 23, 2014, the County pursued an action in the original jurisdiction of this Court, challenging the validity of the WFFD as violative of Home Rule and *Wagener v. Smith*. The County sued its Commission on Registration and Elections, its Auditor and its Treasurer. On August 6, 2014, this Court denied the petition, finding the County did not establish that its "rights would be materially prejudiced by the circuit court hearing this action or that extraordinary circumstances exist[ed]...." *Florence County v. Registration and Elections Comm'n for Florence County*, Order (S.C. Sup. Ct. filed Aug. 6, 2014).

On September 9, 2014, residents within the fire district held an election and selected the WFFD's commissioners. The WFFD has been operating continuously since that time.

On September 16, 2014, the County filed this action against the WFFD and the State of South Carolina. The new action challenged the validity of 2014 Act No. 183, and sought a declaration that the Act was unconstitutional. All defendants timely answered. The matter was then referred to Circuit Court Judge J.C. Nicholson pursuant to an order of the Court. *Florence County v. West Florence Fire Dist.*, Order (S.C. Sup. Ct. filed Nov. 17, 2014).

On June 4, 2015, the South Carolina General Assembly passed Act No. 89, which amended the legislation created by 2014 Act No. 183. Act No. 89, 2015 S.C. Acts. The 2015 Act further defined the coverage of the WFFD and added a five-year sunset provision on the fire district. On June 13, 2015, Governor Haley vetoed 2015 Act No. 89, but the General Assembly overrode that veto.

On August 15, 2015, the County filed and served an amended Complaint so as to challenge both 2014 Act No. 183 and 2015 Act No. 89. All defendants timely filed answers to the amended complaint. The parties engaged in discovery and on July 25 and 26, 2016, the parties presented testimony and evidence at trial.

On January 17, 2017, the circuit court entered an order ruling in favor of the County. The court also ordered the parties to propose a plan to transition personnel, assets and service from the WFFD to the County. Appellants timely sought reconsideration and on February 13, 2017, the circuit court denied the motion. On March 20, 2017, the circuit court entered a consent order staying the prior order regarding the transition plan pending a final decision on appeal.

On March 22, 2017, Appellants served their notice of appeal.

ARGUMENTS

INTRODUCTION

The circuit court ruled that the Act and the Amendment violated the principles set forth in *Wagener v. Smith* as well as provisions of the South Carolina Constitution against "special legislation" and governing Home Rule. The circuit court declared the provisions invalid and of no continuing effect and ordered a transition of the WFFD into the County's consolidated district. Appellants respectfully seek this Court's review of those determinations and for an order reversing the circuit court and upholding the General Assembly's actions.

SCOPE OF APPELLATE REVIEW

The party challenging the constitutionality of the statute has "the burden of proving the statute unconstitutional." *In re Treatment of Luckabaugh*, 351 S.C. 122, 135, 568 S.E.2d 338, 344 (2002); *State v. Jones*, 344 S.C. 48, 58, 543 S.E.2d 541, 546 (2001); *State v. Bouye*, 325 S.C. 260, 265, 484 S.E.2d 461, 464 (1997).

The Court has "a very limited scope of review in cases involving a constitutional challenge to a statute." *State v. Harrison*, 402 S.C. 288, 292, 741 S.E.2d 727, 729 (2013); *In re Justin B.*, 405 S.C. 391, 395, 747 S.E.2d 774, 776 (2013); *Curtis v. State*, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001); *Joytime Distrib. & Amusement Co. v. State*, 338 S.C. 634, 640, 528 S.E.2d 647, 651 (1999). The Court begins with a presumption of constitutionality, and all statutes will be construed so as to render them valid if at all possible. *South Carolina Dept. of Soc. Serv. v. Michelle G.*, 407 S.C. 499, 757 S.E.2d 388 (2014); *State v. Harrison.*

A legislative act will not be declared unconstitutional unless its repugnance to the constitution is clear beyond a reasonable doubt. *Curtis v. State*; *In re Lasure*, 379 S.C. 144, 147, 666 S.E.2d 228, 229 (2008); *Westvaco Corp. v. S.C. Dep't of Revenue*, 321 S.C. 59, 62, 467 S.E.2d 739, 741 (1995). *See also State v. Gaster*, 349 S.C. 545, 549-550, 564 S.E.2d 87, 89-90 (2002) ("When the issue is the constitutionality of a statute, every presumption will be made in favor of its validity and no statute will be declared unconstitutional unless its invalidity appears so clearly as to leave no doubt that it conflicts with the constitution."). "Moreover, when the constitutionality of a statute is challenged, every presumption will be made in favor of its validity." *Segars-Andrews v. Judicial Merit Selection Comm'n*, 387 S.C. 109, 118, 691 S.E.2d 453, 458 (2010). A statute will not be declared unconstitutional unless its invalidity appears so clearly as to leave no doubt that it violates some provision of the constitution. *Id.*, *citing Gold v. S.C. Bd. of Chiropractic Exam'rs*, 271 S.C. 74, 245 S.E.2d 117 (1978).

I. THE CIRCUIT COURT ERRED IN HOLDING THE NEW SPECIAL PURPOSE DISTRICT AND ITS EXPANSION WITH THE STATUTORY AMENDMENT WERE VOID UNDER THE "RULE OF *WAGENER V. SMITH*"

The circuit court held that the new SPD violated the holding in *Wagener v. Smith*, 221 S.C. 438, 71 S.E.2d 1 (1952) and its progeny. (Order of 1/17/17, pp. 17-19). The Court should reverse.

Wagener involved the creation of two completely overlapping municipal corporations in the same exact area carrying out the same exact functions (the Township of Folly Island, created in 1936, and the Town of Folly Beach, created in 1951). This

Court agreed with the circuit court that "there cannot be at the same time, within the same territory, two distinct municipal corporations, exercising the same powers, jurisdiction, and privileges." *Id.*, at 445, 71 S.E.2d at 4. The Court noted the "rule does not rest upon any theory of constitutional limitation, but upon the practical consideration that intolerable confusion instead of good government, almost inevitably would attain in a territory in which two municipal corporations of like kind and powers attempted to function coincidentally." *Id.*, at 446, 71 S.E.2d at 4. That is, there were two town governments attempting to exist simultaneously over a coextensive geographic region to carry out all of the same functions of government and that state of affairs necessarily caused "intolerable confusion instead of good government."

Unlike the overlapping townships in *Wagener*, the special purpose district created by these Acts does not involve two municipal corporations overlapping so as to cover a coextensive geographical area and the same powers and functions. The concern in *Wagener* of ensuring a lack of confusion by two governments attempting to function coincidentally does not exist in this case. The WFFD covers an area of western Florence County and a portion of eastern Darlington County, and is limited to providing fire protection services within the district. There is no attempt to overlap "two municipal corporations of like kind and powers" who are attempting "to function coincidentally." *Wagener*, 221 S.C. at 446, 71 S.E.2d at 4.

Additionally, although the circuit court held the County's "Creation Ordinance became effective simultaneously with the Dissolution Ordinance" in May 2014 (Order of 1/17/17, p. 9, ¶ 14), this is not completely accurate. As the circuit court noted, the

Secretary of State issued his final order dissolving the fire districts in Florence County on May 12, 2014. (Order of 1/17/17, p. 9, ¶ 15; Plaintiff's Exh. 11, 12). This was prior to the public hearing (May 15, 2014) and the County's third reading of its ordinance consolidating fire departments into one county-wide fire protection service area. (May 15, 2014). The County last advertised the ordinance on May 8, 2014. The County's ordinance did not become effective, however, until May 28, 2014, when the time for challenging the ordinance expired. *See* S.C. Code Ann. § 4-19-20 (6) (1992) (person affected by action of governing body may challenge action within 20 days following last publication of notice). Governor Haley signed 2014 Act 183 into law on May 28, 2014, and the statute was effective immediately upon her signature. Thus, the WFFD was in existence at or during a time when the prior fire district serving the area became dissolved, and prior to or at the same time of the effective date of the County's ordinance creating the consolidated district.

Wagener v. Smith posed no bar to the creation of the WFFD, and the circuit court erred in so holding. The court's order effectively expands *Wagner v. Smith* beyond its narrow application. This Court should reverse that ruling and remand the matter for the entry of judgment in accordance with the Court's decision.

II. THE CIRCUIT COURT ERRED IN HOLDING THE ACT AND THE AMENDMENT CONSTITUTED "SPECIAL LEGISLATION" WERE VOID UNDER S.C. CONSTITUTION ARTICLE III, § 34

The circuit court found the subject legislation is "special legislation" in violation of article III, § 34 of the state constitution. (Order of 1/17/17, pp. 19-26). The circuit court stated it focused on "four aspects" of the 2014 Act and the 2015 Amendment which it held violate the prohibition against special legislation found in article III, § 34. This Court should reverse.

Article III, § 34, entitled "Special laws prohibited," provides:

> The General Assembly of this State shall not enact local or special laws concerning any of the following subjects or for any of the following purposes, to wit:
>
> * * *
>
> IX. In all other cases [other than those listed in paragraphs I through VIII, which are not relevant to this case], where a general law can be made applicable, no special law shall be enacted...."

S.C. Const. art. III, § 34, ¶ IX. This Court has noted that "for decades," the Court has recognized the right of the General Assembly to create special purpose districts without regard to the prohibition of S.C. Constitution art. III, § 34(IX) against special legislation. *Hagley Homeowners Ass'n, Inc. v. Hagley Water, Sewer, and Fire Authority*, 326 S.C. 67, 485 S.E.2d 92 (1997).

A. Purported Divestiture of Generally-Held County Power

The circuit court first held that the new provisions "treat Florence County and Darlington County differently from every other county, denying to those two counties the

governmental power to control fire protection services for unincorporated areas inside their boundaries... and divesting them of their authority to tax the area of the New SPD for fire protection services...." (Order of 1/17/17, pp. 21-22).

The circuit court's holding ignores the existence of South Lynches Fire District, which covers portions of lower Florence County and upper Williamsburg County. (See Order of 1/17/17, p. 11, ¶¶ 21-22). *See also* S.C. Code Ann. § 4-23-810 (1983) (creating South Lynches Fire District in Florence and Williamsburg Counties in 1983). This holding also fails to consider the existence of numerous "joint county" fire districts, some of which pre-date Home Rule, *See* S.C. Code Ann. § 4-23-10 (Supp. 2016) (creating the Murrell's Inlet-Garden City Fire District in Georgetown and Horry Counties in 1962, amended in 2016), but some of which, like South Lynches, were created after the enactment of Home Rule. *See* S.C. Code Ann. § 4-23-210 (Supp. 2016) (creating the Pelham-Batesville Fire District in Greenville and Spartanburg Counties in 1962); S.C. Code Ann. § 4-23-410 (Supp. 2016) (creating the Gowansville Fire District in Greenville and Spartanburg Counties in 1982); S.C. Code Ann. § 4-23-1200 (Supp. 2016) (creating the Landrum Fire and Rescue District in Greenville and Spartanburg Counties in 2015). If West Florence is declared invalid for the reasons set forth in the circuit court's order, then each of these other multi-county special purpose fire districts become vulnerable to the same attack.

The Court should reverse the circuit court's analysis on this "aspect" of the 2014 and 2015 Act creating the West Florence Fire District.

B. The Acts' Relief from Act 388

The circuit court next noted that the statutes creating WFFD contain the following provision:

> (C) Notwithstanding the provisions of Section 6-1-320, the commission is authorized to impose a millage levy after 2014 it considers appropriate and necessary for the operation of the district above that permitted by Section 6-1-320 upon a favorable vote of the registered electors of the district in a referendum called for this purpose by the commission held pursuant to the provisions and requirements of Sections 6-11-271 and 6-11-273.

S.C. Code Ann. § 4-23-1015(C) (2015). (Order of 1/17/17, pp. 22-23). Section 6-1-320 provides for a limitation on millage increases by "a local governing body...." S.C. Code Ann. § 6-1-320(A)(1) (Supp. 2016). "Local governing body" means "the governing body of a county, municipality, or special purpose district." S.C. Code Ann. § 6-1-300(3) (Supp. 2016). This section is a codification of Act No. 388, 2006 S.C. Acts. The circuit court held "the Act's relief from Act 388" rendered it void in its entirety under article III, § 34. (Order of 1/17/17, p. 24).

Section 4-23-1015(C), however, expressly requires a public referendum before the WFFD may increase its millage outside the restrictions contained in Section 6-1-320. That is, any increase under this code section is contingent upon the registered electors of the district having a say in the increase. Unless and until such a referendum is proposed and put to the people who reside within the WFFD, this provision does not become operative. The court's ruling, therefore, is essentially an advisory ruling on a constitutional issue that may never arise. *Cf. Morris v. Anderson County*, 349 S.C. 607, 564 S.E.2d 649 (2002) (court declined to address constitutional issue that might never

arise). *See also Colleton County Taxpayers Ass'n v. Sch. Dist. of Colleton County*, 371 S.C. 224, 242, 638 S.E.2d 685, 694 (2006) ("[A]n issue that is contingent, hypothetical, or abstract is not ripe for judicial review.").

Furthermore, the commissioners who would decide whether to put this issue to the voters are composed of persons assented to by the people. See *Bradley v. Cherokee School District No. One*, 322 S.C. 181, 470 S.E.2d 570 (1996) (Court upheld the local tax act, finding that "[t]he ultimate authority under the Act to impose the tax rests with the Cherokee County voters," as the entire county electorate had voted on issuance of the bonds and the sales tax).

The circuit court should, therefore, have declined to rule on whether the Acts violated article III, § 34(IX) as "special legislation" because of the exemption from Act 388, which rendered this legislation different from applicable general law – that exemption may never be utilized. Until that time any ruling on this contingent question would be academic.

Furthermore, even if this portion of the Acts could be found to be violative of article III, § 34(IX), this would not end the inquiry. The court would next determine if any portion of the Acts is severable such that the legislative intent may be carried out by the remaining provisions of the Acts.

An Act which offends the Constitution may be shorn of its "offending provision" if the constitutional purpose of the legislation remains complete in itself, wholly independent of that which is rejected, and is of such a character that it may fairly be presumed the legislature would have passed it independent of that which conflicts with

the constitution. *American Petroleum v. S.C. Dept. of Revenue*, 382 S.C. 572, 677 S.E.2d 16 (2009). "The test for severability is whether the constitutional portion of the statute remains complete in itself, wholly independent of that which is rejected, and if of such a character that it may fairly be presumed the legislature would have passed it independent of that which conflicts with the constitution." *Joytime Distrib. & Amusement Co., Inc. v. State*, 338 S.C. 634, 648–49, 528 S.E.2d 647, 654 (1999) (citations omitted). On the other hand, "[w]hen the residue of an Act, *sans* that portion found to be unconstitutional, is capable of being executed in accordance with the Legislative intent, independent of the rejected portion, the Act as a whole should not be stricken as being in violation of a Constitutional Provision." *Id.* (quoting *Dean v. Timmerman*, 234 S.C. 35, 43, 106 S.E.2d 665, 669 (1959)).

The exemption from Section 6-1-320 is independent of the remainder of the Acts. That is, that portion containing the exemption is mutually independent of the provisions expanding the territory and adding the sunset clause. *Compare Law Firm of Paul L. Erickson, P.A. v. Boykin*, 383 S.C. 497, 681 S.E.2d 575 (2009) (Court severed offending portion of statute from the rest of the statute) with *Sojourner v. Town of St. George*, 383 S.C. 171, 679 S.E.2d 182 (2009) (finding offensive clause in this case may not be severed from remainder of statute because two provisions were mutually dependent upon each other). That provision may be severed from the statute leaving the remainder operative and not in violation of article III, § 34.

Therefore, even if Section 4-23-1015(C) is "special legislation" in violation of article III, § 34(IX), the provision referencing Section 6-1-320 may be severed from the

statutes without rendering the remaining provisions incapable of being carried out according to the Legislature's intent.

Accordingly, the circuit court should have denied the County's claim for relief under article III, § 34(IX).

C. The Amendment's Expansion of the New SPD

The circuit court found the 2015 Amendment to the Act which expanded the coverage of the WFFD was done "to avoid the concern, at the heart of the Home Rule issue addressed below, that three lots and a right-of-way were not sufficient to make West Florence Rural a matter of multi-county concern." (Order of 1/17/17, p. 24). The circuit court disagreed with the Legislature's reasoning in the expansion and held it also violated article III, § 34, ¶ 9. (Order of 1/17/17, pp. 24-25).

Again, this criticism and conclusion ultimately goes to the wisdom of the legislative enactments. It is not within the court's province, however, to weigh-in on the wisdom of legislative policy determinations; rather, the court's judicial role is limited to determining whether the Acts withstand the County's constitutional challenges. *Town of Hilton Head Island v. Kigre, Inc.*, 408 S.C. 647, 760 S.E.2d 103 (2014). *See also Laird v. Nationwide Ins. Co.*, 243 S.C. 388, 395, 134 S.E.2d 206, 209 (1964) (responsibility for the wisdom of legislation rests with the Legislature); *Bradford v. Richardson*, 111 S.C. 205, 215, 97 S.E. 58, 61 (1918) ("the courts are not concerned with the wisdom or policy of legislation, except in so far as it may be determinative of legislative power. The power being conceded, the wisdom or policy of legislation is for the Legislature alone. Hence, though we may differ with the Legislature as to the propriety of the law, we must sustain

its validity, if it be possible to do so, by any reasonable construction of the Constitution.").

This Court should reverse the circuit court's conclusion on this aspect of the 2014 and 2015 Acts creating the WFFD.

D. Required Transfer of New Hoffmeyer Road Firehouse

The circuit court pointed out that the new Acts required the County to transfer to the WFFD the recently acquired real property on Hoffmeyer Road where a new station house now been built and is in operation. The circuit court held the new Acts "have stripped Florence County Council (and no other county) of those powers with regard to the Hoffmeyer Road property; and they have required the taxpayers of Florence County to make a donation for the provision of services to a limited area not only of Florence County but also of Darlington County." (Order of 1/17/17, pp. 25-26).

This finding ignores that the WFFD had to assume indebtedness attributed to the former West Florence Rural Fire District "to be determined by agreement of the West Florence Fire District Commission, and the governing body of Florence County. The real property on Hoffmeyer Road in the county which the governing body of Florence County has acquired to construct a new fire station also must be transferred to the new district established by this article." S.C. Code Ann. § 4-23-1025 (Supp. 2016). That is, the WFFD is not receiving a "donation" at the hands of citizens who are unrelated to the new district. Rather, the WFFD must assume any debt of the old fire district and must negotiate the "transfer" of the Hoffmeyer Road property to the WFFD. Additionally, as the circuit court pointed out, the majority of the taxpayers within the WFFD live in Florence County.

Once again, the circuit court is second-guessing a policy decision made by the General Assembly. Those decisions are not for the court but for the legislative branch of government. *Town of Hilton Head Island v. Kigre, Inc.*, 408 S.C. 647, 760 S.E.2d 103 (2014); *Laird v. Nationwide Ins. Co.*, 243 S.C. 388, 134 S.E.2d 206 (1964); *Bradford v. Richardson*, 111 S.C. 205, 97 S.E. 58 (1918).

For the reasons stated this Court should reverse the circuit court's order finding the creation of the WFFD violated the constitutional prohibition against "special legislation."

III. The Circuit Court Erred in Holding the Act and the Amendment Were Void under the Home Rule Provisions of the S.C. Constitution, article VIII, § 7, and the Home Rule Act

The circuit court found both the 2014 and the 2015 Acts violate the Home Rule Amendments to the South Carolina Constitution, specifically article VIII, § 7. (Order of 1/17/17, pp. 26-40).The Court should reverse.

The circuit court first found the statutes violate Constitution article VIII, § 7, which provides, "[n]o laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected alternative form of government." S.C. Const. art. VIII, § 7.

Although the circuit court reviewed testimony the parties presented on the history and nature of the WFFD and its formulation as well as the County's efforts to consolidate its fire service countywide, there was no dispute that the special purpose fire district created by these Acts includes some portion of both Florence and Darlington counties.

The 2014 Act contained a small parcel of land abutting I-95, and there is no question that the land resides inside Darlington County while the remainder of the district is in Florence County. Furthermore, the addition of parcels in the 2015 Act expanded the territory within Darlington County that is included within the special purpose fire district.

In a 2011 opinion, the South Carolina Attorney General's office concluded that legislation that is "multi-county" would likely be upheld as constitutional under article VIII, § 7. *See* S.C. Atty. Gen. Op. dated April 15, 2011 (2011 WL 1740746). The circuit court held that the Acts at issue in this case, containing a "little, tiny piece" of another county, was "a bridge too far." (Order, p. 34). That decision focuses on the wisdom of the legislature's actions, however, and that matter is not for the courts to assess.

The Court should find the reasoning of the Attorney General's 2011 opinion persuasive on this issue. *See Kalber v. Redfearn*, 215 S.C. 224, 54 S.E.2d 791 (1949) (while opinions of the Attorney General are not binding upon the court, they are persuasive, "for that official occupies a quasi judicial position"). The 2011 A.G. Opinion analyzed several opinions of this Court that construed article VIII, § 7, and concluded a multi-county district "is not a law for a specific county" so as to be invalid under article VIII, § 7. *See Torgerson v. Craver*, 267 S.C. 558, 563-564, 230 S.E.2d 228, 230 (1976) (finding legislation amending a two-county airport district in *Kleckley v. Pulliam*, 265 S.C. 177, 217 S.E.2d 217 (1975) was valid because the "legislation was not for a specific county; it was for a region" whereas the airport district in *Torgeson* was located entirely within Charleston County and thus violated article VIII, § 7 "because it is legislation for a specific county"). *Cf. Fort Hill Natural Gas Authority v. City of Easley*, 310 S.C. 346,

349, 426 S.E.2d 787, 789 (1993) (finding a suggested amendment to legislation creating a natural gas authority would not violate article VIII, § 7, "as the Authority extends beyond the confines of one county."). *Accord Pickens County v. Pickens County Water and Sewer Authority*, 312 S.C. 218, 219, 439 S.E.2d 840, 842 (1994) (noting article VIII, § 7 "prohibits the enactment of legislation after March 7, 1973, that affects a specific county," *citing Hamm v. Cromer*, 305 S.C. 305, 408 S.E.2d 227 (1991)).

The circuit court was critical of the legislature's decision, describing it as "de minimis" and essentially concluding that the inclusion of areas outside of Florence County were "a merely pretextual attempt to avoid" unconstitutionality under the Home Rule Amendments. (Order of 1/17/17, pp. 36-38). Once again, this criticism and conclusion ultimately goes to the wisdom of the legislative enactments. It is not within the court's province, however, to weigh-in on the wisdom of legislative policy determinations; rather, the court's judicial role is limited to determining whether the Acts withstand the County's constitutional challenges. *Town of Hilton Head Island v. Kigre, Inc.*, 408 S.C. 647, 760 S.E.2d 103 (2014). *See, also, Taghivand v. Rite Aid Corp.*, 411 S.C. 240, 244, 768 S.E.2d 385, 387 (2015) (recognizing that the "'primary source of the declaration of the public policy of the state is the General Assembly; the courts assume this prerogative only in the absence of legislative declaration'"); *Laird v. Nationwide Ins. Co.*, 243 S.C. 388, 395, 134 S.E.2d 206, 209 (1964) (the responsibility for the wisdom of legislation rests with the Legislature); *Bradford v. Richardson*, 111 S.C. 205, 215, 97 S.E. 58, 61 (1918) ("the courts are not concerned with the wisdom or policy of legislation, except in so far as it may be determinative of legislative power. The power being

conceded, the wisdom or policy of legislation is for the Legislature alone. Hence, though we may differ with the Legislature as to the propriety of the law, we must sustain its validity, if it be possible to do so, by any reasonable construction of the Constitution.").

Both the 2014 and the 2015 Acts are laws enacted for Florence *and* Darlington counties. That is, they are not "legislation for a specific county" and therefore do not violate article VIII, § 7. This view is in keeping with the rule of construction requiring the Court to presume the legitimacy of these statutes and to uphold the statutes if at all possible. *E.g.*, *State v. Bouye*, 325 S.C. 260, 265, 484 S.E.2d 461, 463-464 (1997) ("When the issue is the constitutionality of a statute, every presumption will be made in favor of its validity and no statute will be declared unconstitutional unless its invalidity appears so clearly as to leave no doubt that it conflicts with the constitution.").

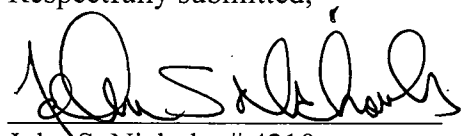
The prohibition of section 7 of article VIII is against the enactment of laws "for a specific county," meaning "that no law may be passed relating to a specific county which relates to those powers, duties, functions and responsibilities, which under the mandated systems of government, are set aside for counties." *Cooper River Park and Playground Commission v. City of North Charleston*, 273 S.C. 639, 642, 259 S.E.2d 107, 108 (1979), *citing Kleckley v. Pulliam*, 265 S.C. 177, 217 S.E.2d 217, 220 (1975). *See Richardson v. McCutchen*, 278 S.C. 117, 119, 292 S.E.2d 787, 788 (1982) (article VIII, §§ 7 and 10 were enacted to prohibit laws "for a specific county or municipality").

This Court should reverse the circuit court's ruling that the statutes creating the WFFD violate the Home Rule provisions.

CONCLUSION

For the reasons stated the Court should reverse the circuit court's order and remand the matter for further proceedings consistent with this Court's decision.

Respectfully submitted,



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of whom
West Florence Fire District, purported to have been created by S.C. Act No. 183 of 2014; the West Florence Fire District Commission, purported to have been created by S.C. Act No. 183 of 2014; David Brown, Dustin Fails, Linda Lang Gipco, Richard Hewitt, and C. Allen Matthews, each in his or her purported official capacity as a member of the West Florence Fire District Commission are . . . . . Appellants.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below he served counsel with a copy of the *Initial Brief of Appellants and Designation of Matter to be Included in the Record on Appeal* by mailing copies of the same by United States Mail

with first class postage prepaid to the following addresses:

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