



HENRY McMASTER
ATTORNEY GENERAL

August 30, 2010

Gary Cannon, Executive Director
South Carolina Workers' Compensation Commission
PO Box 1715
Columbia, SC 29202

Dear Mr. Cannon:

We received your letter requesting an opinion of this Office concerning the South Carolina's Workers' Compensation Commission's authority to charge a filing fee. This opinion will address prior opinions of this Office, relevant statutes, provisos and caselaw to determine whether the Workers' Compensation Commission has authority to charge a filing fee.

Law/Analysis

The General Assembly ratified House Bill 4657 which includes Proviso 58.3 for the General Appropriations Bill for Fiscal Year 2010-2011. Proviso 58.3 states as follows:

The Workers' Compensation Commission is authorized to retain and expend all revenues received as a result of a \$25.00 filing fee for each requested hearing, settlement, or motion. If it is determined that the individual is indigent, this filing fee must be waived.

Proviso 58.3 (H. 4657, S.C. General Assembly, 118th Session, 2009-2010).

It is well established that provisos carry statutory authority and must be adhered to. If the General Assembly passes a proviso, there will be statutory authority to take whatever action is indicated in the proviso unless the Governor vetoes the proviso or there is some other indication to the contrary. See, Op. S.C. Atty. Gen., September 4, 2003; July 19, 2000; May 1, 2000; November 2, 1993. In an opinion of this Office dated August 12, 1975, we stated as follows:

A proviso inserted in an appropriations bill . . . must be complied with for the release of the appropriated money.

Op. S.C. Atty. Gen., August 12, 1975. See also, S.C. Code § 11-9-10 ("It shall be unlawful for any moneys to be expended for any purpose or activity except that for which it is specifically

appropriated, and no transfer from one appropriation account to another shall be made unless such transfer be provided for in the annual appropriations act.”).

In interpreting any legislative act, the primary objective is to ascertain and effectuate legislative intent if at all possible. Mid-State Auto Auction of Lexington, Inc. v. Altman, 324 S.C. 65, 476 S.E.2d 690 (1996). “If a statute’s language is plain, unambiguous, and conveys a clear meaning, then the rules of statutory interpretation are not needed and a court has no right to impose another meaning. The words must be given their plain and ordinary meaning without resort to subtle or forced construction which limit or expand the statute’s operation.” Strickland v. Strickland, 372 S.C. 76, 88-89, 650 S.E.2d 465, 472 (2007) (citations omitted). Provisos must be strictly construed. Barringer v. Dinkler Hotels Co., 61 F.2d 82, 84 (4th Cir. 1932); 2A Sutherland, Statutory Construction, § 47.08. See, Op. S.C. Atty. Gen., March 15, 1993.

Based on the foregoing principles of statutory construction, it is our opinion that the explicit language that the “Workers’ Compensation Commission is authorized to retain and expend all revenues received as a result of a \$25.00 filing fee for each requested hearing, settlement, or motion” indicates that the Workers’ Compensation Commission may charge a filing fee.

Conclusion

It is the opinion of this Office that a court would likely find that the intent of the General Assembly is made clear in Proviso 58.3, and that the Workers’ Compensation Commission has the authority to charge a \$25.00 filing fee for all hearings, settlements, and motions unless the individual is indigent.¹

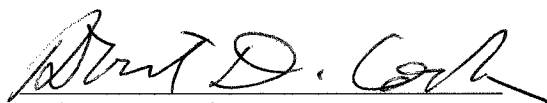
Sincerely,

Henry McMaster
Attorney General



By: Leigha Blackwell
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General

¹ Proviso 58.3 (H. 4657, S.C. General Assembly, 118th Session, 2009-2010).