HENRY MCMASTER
ATTORNEY GENERAL

December 21, 2010

Charles Reece, Chief of Police
Simpsonville Police Department
405 East Curtis Street
Simpsonville, SC 29681

Dear Chief Reece:

In a letter to this office you referenced the provisions of S.C. Code Ann. § 23-23-120 which provides for reimbursement for training costs when hiring certified law enforcement officers. Such provision states:

> (A) For purposes of this section, "governmental entity" means the State or any of its political subdivisions.
>
> (B) After July 1, 2007, every governmental entity of this State intending to employ on a permanent basis a law enforcement officer who has satisfactorily completed the mandatory training as required under this chapter must comply with the provisions of this section.
>
> (C) If a law enforcement officer has satisfactorily completed his mandatory training while employed by a governmental entity of this State and within two years from the date of satisfactory completion of the mandatory training a different governmental entity of this State subsequently hires the law enforcement officer, the subsequent hiring governmental entity shall reimburse the governmental entity with whom the law enforcement officer was employed at the time of attending the mandatory training:
>
> > (1) one hundred percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired within one year of the date of satisfactory completion of the mandatory training; or

(2) fifty percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired after one year but before the end of the second year after the date of satisfactory completion of the mandatory training.

(D) If the law enforcement officer is employed by more than one successive governmental entity within the two-year period after the date of satisfactory completion of the mandatory training, a governmental entity which reimbursed the governmental entity that employed the officer during the training period may obtain reimbursement from the successive governmental entity employer for:

(1) one hundred percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired within one year of the date of satisfactory completion of the mandatory training; or

(2) fifty percent of the cost of training the officer, which shall include the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training, if the officer is hired after one year but before the end of the second year after the date of satisfactory completion of the mandatory training.

(E) The governmental entity that employed the officer during the training period or a governmental entity seeking reimbursement from a successive governmental entity employer must not be reimbursed for more than one hundred percent of the cost of the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training.

(F) A governmental entity, prior to seeking any other reimbursement, must first seek reimbursement from the subsequent hiring governmental entity under the provisions of this section. In no case may a governmental entity receive more than one hundred percent of the cost of the officer's salary paid during the training period and other training expenses incurred while the officer was attending the mandatory training.

(G) No officer shall be required to assume the responsibility of the repayment of these or any other related costs by the employing agency of the governmental entity of the employing agency in their effort to be reimbursed pursuant to this section.

> (H) Any agreement in existence on or before the effective date of this section, between a governmental entity and a law enforcement officer concerning the repayment of costs for mandatory training, remains in effect to the extent that it does not violate the provisions of subsections (E), (F), or (G). No governmental entity shall, as a condition of employment, enter into a promissory note for the repayment of costs for mandatory training after the effective date of this section.

You have questioned whether in circumstances where a law enforcement officer was terminated from the law enforcement agency where the officer was employed at the time of mandatory training and then was subsequently hired by another law enforcement agency within the two year period following successful completion of the mandatory training, is the subsequent hiring agency responsible for the reimbursement training costs pursuant to Section 23-23-120?

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

A prior opinion of this office dated September 28, 1998 dealt with the situation where law enforcement officers resigned their positions for the reason of "intolerable working conditions...(where)...those officers had reason to believe that their jobs were in jeopardy and that termination was inevitable." The question raised was whether under any circumstances, does the one or two year reimbursement provision apply? The opinion concluded that the statute providing for reimbursement

> ...reveals no specific exception covering the situation where a police officer leaves his current employment with one police agency out of frustration or dissatisfaction, and subsequently takes a job with another law enforcement agency within the prescribed time following a brief tenure in non-law enforcement employment. The statute expressly states that if the law enforcement officer satisfactorily completes his training while employed with one agency and "within two years from the date of satisfactory completion of mandatory training", the "subsequent hiring governmental entity shall reimburse the governmental entity with whom the law enforcement officer was employed at the time of the mandatory training" in the manner prescribed. The obvious purpose of the statute is to insure that the costs incurred for

> training the officer by one agency are reimbursed to that agency by the "subsequent hiring governmental entity." The reasons the officer left the first agency in a particular instance -- be it for more money, greater opportunities or dissatisfaction with the present job are simply not spoken to by the statute. Neither is there recognized an exception for an interruption of service. The statutory provision simply sets a mandatory period of time within which an officer's being hired by a second agency results in that agency's incurring costs of the training. In such instance, the training costs of such officer must be reimbursed to the first agency by the subsequent hiring entity.

Therefore, in the opinion of this office, in circumstances where a law enforcement officer was terminated from the law enforcement agency where the officer was employed at the time of mandatory training and then was subsequently hired by another law enforcement agency within the two year period following successful completion of the mandatory training, the subsequent hiring agency would be responsible for the reimbursement training costs pursuant to Section 23-23-120.

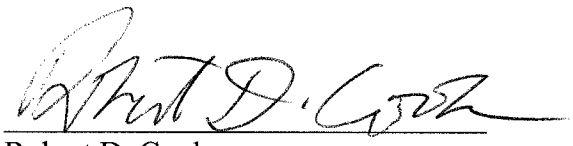
With kind regards, I am,

Very truly yours,

Henry McMaster
Attorney General

By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General