

The State of South Carolina



Office of the Attorney General

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March 24, 1988

The Honorable James L. Solomon, Jr.
Commissioner
South Carolina Department
of Social Services
Post Office Box 1520
Columbia, South Carolina 29202

Dear Commissioner Solomon:

You have advised that several counties supplement the salaries of employees of the South Carolina Department of Social Services. Referencing several provisos in annual appropriations acts from fiscal year 1981-82 to the present date, you have asked whether the proviso in the 1982-83 appropriations act froze the number of employees eligible to receive salary supplements, whether the amounts of said supplements were fixed by the 1982-83 appropriations act, and whether an employee failing to report the supplement as required by the 1987-88 appropriations act may nevertheless receive the supplement.

County supplements to employees of the Department of Social Services were authorized by the General Assembly as late as fiscal year 1982-83. In the 1983-84 appropriations act, however, it was provided that "no county shall supplement the salary of any DSS employee during Fiscal Year 1983-84 except for those DSS employees which received a salary supplement during Fiscal Year 1982-83." Act No. 151 of 1983. Each year, this proviso has been carried forward, with only the dates being revised annually. See Act No. 512 of 1984; Act No. 201 of 1985; Act No. 540 of 1986; Act No. 170 of 1987. In addition, proviso number 16.88 in Act No. 170 of 1987 mandated that any state employee receiving any supplement from a public or private source must report that supplement to the Division of Human Resource Management of the Budget and Control Board.

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In light of those various provisos, it would appear that those DSS employees who were entitled to receive county supplements in fiscal year 1982-83 and in each subsequent year thereafter would still be eligible to receive the supplements. Those various provisos also seem to allow each county to determine, as it deems appropriate, whether or not to continue to pay the supplements to the eligible DSS employees. As long as the county continues to fund the supplements, those DSS employees who are entitled to receive the supplements could receive them. As to which employees are so entitled, when that entitlement began, and how the supplements were made, those are factual determinations which this Office is not empowered to make. Furthermore, within the above-cited appropriations acts, no proviso ever established a limit on the amount of any county supplement.

Finally, while an employee receiving a county supplement is mandated by proviso number 16.88 of Act No. 170 of 1987 to report said supplement, that proviso contains no enforcement or penalty provisions to enforce compliance. It is, however, a violation of law for a state employee receiving a county supplement to fail to report the supplement, even though the employee is not penalized.

With kindest regards, I am

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