

1983 WL 181967 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 5, 1983

\*1 Jack S. Mullins, Ph.D.

Director

State Personnel Division

1205 Pendleton Street

Columbia, South Carolina 29201

Dear Dr. Mullins:

You have requested an opinion concerning what state agencies must do in order to satisfy that provision of Section 153 of the 1982-83 Appropriations Act which provides:

Notwithstanding any other provision of law, when a vacancy occurs in a state agency, other than institutions of higher education, or when an agency acts to fill a new position, the agency shall give preference to residents of this State who are qualified for the vacancy or new position.<sup>a</sup>

A cardinal principle of statutory construction is that '[a] statutory provision should be given a reasonable and practical construction consistent with the purpose and policy expressed in the statute.' [Hay v. South Carolina Tax Commission](#), 273 S.C. 269, 273, 255 S.E.2d 837 (1979). Application of this canon of construction to the quoted statutory provision leads us to the opinion that this provision requires that, in filling vacant or new positions, if a South Carolina resident has applied for the position and meets the minimum qualifications for the job, the South Carolina resident shall be appointed to the position notwithstanding that there are non-resident applicants for the position who are better qualified for the position than the South Carolina resident. This interpretation is consistent with the apparent purposes of the resident preference legislation, namely to put South Carolinians in state jobs and thereby to reduce, if only marginally, the level of unemployment and underemployment among South Carolina residents. Of course, as among a number of qualified South Carolina applicants, the employer is free to choose the most qualified.

I trust this opinion satisfies your inquiry.

Sincerely,

Vance J. Bettis

Assistant Attorney General

Footnotes

<sup>a</sup> We express no opinion as to the constitutionality of this legislation.

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