

1977 WL 37311 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 15, 1977

*1 Honorable Frank L. Roddey
State Senator
Box 129
Lancaster, South Carolina 29720

Dear Senator Roddey:

As you know, the Federal Unemployment Compensation Amendments of 1976 extend coverage for unemployment insurance purposes to states and their political subdivisions. H-2722 has passed the House of Representatives providing for State coverage in accordance with the Federal Act and it provides also that if coverage as mandated by the Federal Act upon State and local government is declared unconstitutional by the Supreme Court of the United States, that extension of unemployment insurance coverage would then be a matter of local option.

I am writing you to urge that while H-2722 is in the Senate before you, that it be amended so as to include the following 'self-destruct' provision:

'If Public Law 94-566 or the Federal Acts it amends is adjudged unconstitutional or invalid in its application or stayed pendente lite as to the employees of this State or one of its Cities or Counties by any court of competent jurisdiction then the coverage of those employees under this law is automatically stayed or repealed to the extent of the adjudged inapplicability of the Federal law.'

The reason this would seem to be necessary is that unless it is included, the State Act would exact unemployment compensation insurance contributions from State and local governments until the federal law may be declared unconstitutional. At such time as it should be declared unconstitutional, the restoration of those contributions is somewhat in doubt. The effect of the proposed amendment as recited above would be to avoid making contributions if the matter is stayed by the United States Supreme Court. Under the present wording of H-2722, contributions would continue even if a stay is granted.

I think well of this proposal and urge your serious consideration of it, as a lawsuit will probably be filed at an early date and an application for a stay will be made. Unless the amendment is incorporated, it is probable that counties and cities will be making contributions which they may not be able to recover even if the Federal Act is declared unconstitutional or, at the very least, they will be deprived of the monies for a long period of time.

I will be glad to talk with you or answer any questions you may have upon the matter at that time.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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