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ATTORNEY GENERAL

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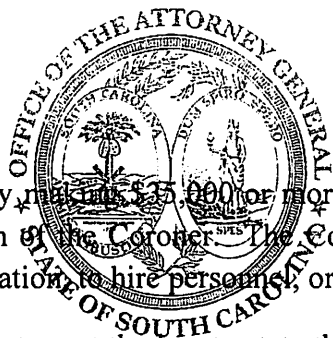
Dear Coroner O'Neal:

Attorney General Alan Wilson has referred your letter to the Opinions section. The letter describes how some county officials have arrived at different conclusions regarding funding for county coroner's offices under S.C. Code § 17-5-140.

In 2018, a law was passed which mandated Child Fatality Review Boards in every county. The Coroner is the responsible official for orchestrating and executing these meetings. However, like so many other mandates, it was unfunded. This funding was finally approved during this past legislative session. The state will be equally distributing 1.6 million to the 46 counties. Although the law (section C 1-3) designates funding by population, they have now decided to distribute equally among counties. Section B of the law states the funding will be designated to supplement the pay of the duly elected Coroner and any remaining funds may be used for disbursement, at the discretion of the Coroner.

As County Treasurers are now receiving the funding, there is disagreement as to how the funds can and should be used.

It is the understating of the SCCA that the funds would be sent to each county treasurer to ensure that each Coroner was paid, at a minimum, a full-time salary of \$35,000/year. If a Coroner was not making \$35,000/year the funds would be used to supplement their pay up to at least \$35,000. The remaining funds would then be used at the discretion of the Coroner. The funds could be used as additional compensation for the Coroner, could be used to hire additional personnel or purchase equipment.



If the Coroner was already making \$35,000 or more, then all the funds could be expended at the discretion of the Coroner. The Coroner could use the funds to supplement their compensation, to hire personnel, or to purchase equipment.

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Some County Treasurers interpret the law to state that the \$35,000 must go to the Coroner as pay and cannot be used for anything else. It is their understanding that if more funds became available than those funds (above \$35,000) then they could be used at the discretion of the Coroner.

The intention of the law was to ensure that in every county, the Coroner is compensated a full-time living wage (\$35,000), who could then meet the mandate to orchestrate and execute Child Fatality Review Boards.

Other County Administrations are stating that the Coroner in their county is ‘part-time’ so they do not have to compensate them a full-time living wage and as a result this legislation does not apply to them. It is the contention of the SCCA that every elected Coroner in the state is full-time. The Coroner is an elected Constitutional office like the elected Sheriff and Solicitor, and covers their county 24 hours/day, 365 days a year.

### Law/Analysis

For the reasons discussed below, it is this Office’s opinion that S.C. Code § 17-5-140 requires each county treasurer to supplement existing funding sources with the funds appropriated thereunder to compensate the elected county coroner with a salary of “at least thirty-five thousand dollars annually.” After satisfying this annual compensation floor, the elected county coroner is then authorized to spend the remaining funds for any of the purposes listed in subsection (B). Finally, it is this Office’s opinion that the General Assembly likely intended for section 17-5-140 to provide supplemental funding for the coroners in each county except where an office is filled by an acting coroner or by an appointment from the Governor. See S.C. Code Ann. § 17-5-50.

As a matter for first impression, this opinion will interpret section 17-5-140 according to the rules of statutory construction. When interpreting a statute, the primary goal is to determine the General Assembly’s intent. See Mitchell v. City of Greenville, 411 S.C. 632, 634, 770 S.E.2d 391, 392 (2015) (“The cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent whenever possible.”). Where a statute’s language is plain and unambiguous, “the text of a statute is considered the best evidence of the legislative intent or will.” Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). Further, “[a] statute as a whole must receive a practical, reasonable and fair interpretation consonant with the purpose, design, and policy of lawmakers.” State v. Henkel, 413 S.C. 9, 14, 774 S.E.2d 458, 461 (2015), *reh’g denied*

(Aug. 5, 2015). “A statute should be so construed that no word, clause, sentence, provision or part shall be rendered superfluous.” Matter of Decker, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995) (quoting 82 C.J.S. Statutes § 346) (internal quotations omitted). Where statutes deal with the same subject matter, it is well established that they “are in *pari materia* and must be construed together, if possible, to produce a single, harmonious result.” Penman v. City of Columbia, 387 S.C. 131, 138,691 S.E.2d 465, 468 (2010); see also Op. S.C. Atty. Gen., 2000 WL 1347162 (Aug. 25, 2000) (The meaning of related statutes and their effect must be determined with reference to each other so as to “construe them together into one integrated system of law.”). With these principles in mind, this opinion will next look to specific provisions within the text of section 17-5-140, related statutes, and legislative history to guide its analysis.

Section 17-5-140 was adopted as part of Act No. 183 of 2018 which created Local Child Fatality Review Teams in each county of the State. Section 1 of the Act established the composition of the teams, provided the stated purpose of the teams is to “expeditiously review all child deaths that occur in the county,” and described the county coroner’s role in regards to the teams. 2018 Act. No. 183, § 1. Section 2 added section 17-5-140 to the South Carolina Code of Laws with the stated purpose in the title of the Act “so as to provide that funds must be disbursed to the counties equally to pay the duly elected full-time coroner or other related personnel or equipment.” 2018 Act. No. 183. The statute reads as follows:

(A) From the funds appropriated for the implementation of this section, and subject to the provisions of subsection (C), the State Treasurer shall disburse an equal amount to each county treasurer on a monthly basis. These funds must supplement, and not supplant, existing funds utilized for full-time county coroners.

(B) From the funds received pursuant to this section, each county treasurer must pay the duly elected full-time coroner at least thirty-five thousand dollars annually. If the funds are not totally expended to pay the duly elected full-time coroner, then at the discretion of the coroner he may use the funds to hire a deputy coroner, administrative personnel, or personnel with forensic training. Also, the coroner may use the funds to provide an office or office equipment.

(C) Upon disbursing thirty-five thousand dollars to each county treasurer in a fiscal year, the State Treasurer shall credit any remaining funds pursuant to subsection (D) to the full-time coroners of each county for the performance of their duties. The remaining funds shall be disbursed as follows:

(1) For those counties with a population of one hundred fifty thousand and above, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of fifty-five percent of the remaining funds.

(2) For those counties with a population of at least fifty thousand but not more than one hundred forty-nine thousand, nine hundred ninety-nine, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of thirty-five percent of the remaining funds.

(3) For those counties with a population of less than fifty thousand, according to the latest official United States Decennial Census, each full-time coroner shall receive an equal share of ten percent of the remaining funds.

(D) Implementation of this section is contingent upon the appropriation of state general funds or the availability of financial support from other sources and must be operational within one year of adequate funding becoming available.

S.C. Code § 17-5-140 (Supp. 2021).

The plain language of subsection (A) articulates two directives. First, the State Treasurer is required to disburse the funds appropriated to implement the statute in equal amounts to “each county treasurer” subject to separate parameters in subsection (C) when funds exceed a specific threshold. Id. Second, the existing funds for “full-time county coroners” are not to be reduced as a result of the funds appropriated to implement the statute. Id.

Subsection (B) describes how these funds may be spent. It initially requires the county treasurer to “pay the duly elected full-time coroner at least thirty-five thousand dollars annually.” Thereafter, the statute grants the “duly elected full-time coroner” discretionary authority to spend the remaining funds for any of the purposes listed in subsection (B).

The question of whether section 17-5-140 requires that appropriated funds be used to supplement a county coroner’s salary to a minimum amount of thirty-five thousand dollars annually or, instead, requires that the first thirty-five thousand dollars appropriated be paid to each county coroner regardless of existing salary appears to come from ambiguity regarding the word “pay.” Black’s Law Dictionary defines “pay” to mean

**pay** *vb.* (13c) **1.** To give money for a good or service that one buys; to make satisfaction <pay by credit card>. **2.** To transfer money that one owes to a person, company, etc. <pay the utility bill>. **3.** To give (someone) money for the job that

he or she does; to compensate a person for his or her occupation; compensate (1) <she gets paid twice a month>. 4. To give (money) to someone because one has been ordered by a court to do so <pay the damages>. 5. To be profitable; to bring in a return <the venture paid 9%>.

PAY, Black's Law Dictionary (11th ed. 2019). If “pay” is interpreted to mean “compensate a person for his or her occupation,” then subsection (B) can be read to establish a minimum a salary of thirty-five thousand dollars a year as the SCCA suggests. (“[E]ach county treasurer must [compensate] the duly elected full-time coroner at least thirty-five thousand dollars annually.”) However, if “pay” is instead interpreted to mean “to give (money) to someone because one has been ordered ... to do so,” then subsection (B) can be read to express the view by some county treasurers that “the \$35,000 must go to the Coroner as pay, and if ... more funds became available ... (above \$35,000) then they could be used at the discretion of the Coroner.”

While one could argue in favor of either interpretation, it is this Office’s opinion a court would likely hold S.C. Code § 17-5-140 requires each county treasurer to compensate the elected county coroner with a salary of “at least thirty-five thousand dollars annually” from existing funding sources supplemented by appropriated funds. If “pay” is interpreted to mean compensate, then subsection (B) provides the county treasurer with clear guidance to determine both the amount of appropriated funds that must be allocated to the county coroner’s salary and the amount remaining that can be used for the listed discretionary purposes. Alternatively, if “pay” is interpreted to mean to give money as the result of being ordered to do so, one could advocate that the Legislature intended to “supplement” the coroner’s salary with an additional \$35,000 from the funds appropriated. However, the statute’s language states the county treasurer “must pay the duly elected full-time coroner at least thirty-five thousand dollars annually.” *Id.* (emphasis added). This interpretation only establishes \$35,000 as the minimum supplement amount for the county coroner’s salary, but it does not establish a maximum amount. Further, no public officer or other person is explicitly authorized to determine the amount nor are any guidelines articulated. While not free from doubt, interpreting subsection (B) to use both existing funding sources and appropriate funds to establish a minimum annual salary of \$35,000 for county coroners provides greater precision regarding the use of the funds appropriated thereunder. Certainly, legislative clarification may be warranted.

Your letter presents a second issue concerning whether a county coroner can be considered “part-time” and, as a result, the funds appropriated under section 17-5-140 would not be allocated to that office. It is this Office’s opinion that the South Carolina Code of Laws does not classify the office of county coroner as either full-time or part-time. The office of coroner is among the oldest offices known to our law, predating the founding of our country by over five centuries. The English Articles of Eyre established the office of the coroner in 1194 as to represent the interests of the English crown on the local level. Paul MacMahon, The Inquest and

the Virtues of Soft Adjudication, 33 Yale L. & Pol’y Rev. 275, 280 (2015). “Under the early common law, the office of coroner was one of great dignity, the coroner being, next to the sheriff, the most important civil officer in the county.” Gavagan v. Marshall, 160 Fla. 154, 33 So.2d 862 (1948) (en banc) (quoting American Jurisprudence). In 1276, coroners were charged by the statute *de officio coronatoris*, 4 Edw. I Stat. 2, to “go to any place where any be slain and inquire . . . .” See 14 S.C. Jur. Coroners, § 9. In other words, coroners in our legal system have been investigating suspicious deaths for over 700 years. In South Carolina, the office of county coroner is established by our State Constitution.

There shall be elected in each county by the electors thereof a clerk of the circuit court, a sheriff, and a coroner; and in each judicial circuit a solicitor shall be elected by the electors thereof. All of these officers shall serve for terms of four years and until their successors are elected and qualify. The General Assembly shall provide by law for their duties and compensation.

The General Assembly also may provide by law for the age and qualifications of sheriffs and coroners, and the selection, duties, and compensation of other appropriate officials to enforce the criminal laws of the State, to prosecute persons under these laws, and to carry on the administrative functions of the courts of the State.

S.C. Const. art. V, § 24.

Because the Constitution requires the General Assembly to provide by law for the duties and compensation for coroners, if there is a basis for determining the office may be considered part-time it would be codified in the Code of Laws. However, there is no reference to “part-time coroners” anywhere in the South Carolina Code of Laws and the only statute that uses the term “full-time coroners” is section 17-5-140 itself. While all words and clauses within a statute are to be construed in a manner so they are not “rendered superfluous,” this Office does not understand section 17-5-140 demonstrates legislative intent to classify coroners as either full-time or part-time officers. See Matter of Decker, *supra*. Although subsections (A) through (C) use the description “full-time coroner” when discussing the use of funds, there are no guidelines or statutory definitions to determine whether a county coroner fails to satisfy this criteria. As your letter suggests, it is may well be that the repeated use of the “full-time” in regards to the use of the appropriated funds and the county coroner is meant to demonstrate the General Assembly’s intent to provide a full-time living wage for these constitutional officers.

Subsection (B), however, uses the phrase “duly elected full-time coroner” twice in reference to the thirty-five thousand dollars annual payment. *Id.* (“If the funds are not totally expended to pay the duly elected full-time coroner . . .”) (emphasis added). The South Carolina

Code recognizes that there are situations where the office of the county coroner may be filled by appointment by the Governor, by the chief magistrate of the county, or the second in command of the coroner's office. See S.C. Code § 17-5-50.<sup>1</sup> It seems likely, therefore, that the General Assembly intended for section 17-5-140 to provide supplemental funding for properly elected coroners in each county, but it was not intended to provide supplemental salary to an acting or appointed coroner. This conclusion is also not free from doubt, and legislative clarification might be warranted on this point as well.

### Conclusion

As is discussed more fully above, it is this Office's opinion that S.C. Code § 17-5-140 requires each county treasurer to supplement existing funding sources with the funds appropriated thereunder to compensate the elected county coroner with a salary of "at least thirty-five thousand dollars annually." After satisfying this annual compensation floor, the elected county coroner is then authorized to spend the remaining funds for any of the purposes listed in subsection (B). Finally, it is this Office's opinion that the General Assembly likely intended for section 17-5-140 to provide supplemental funding for properly elected coroners in

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<sup>1</sup> S.C. Code § 17-5-50

(A) Except as provided in subsection (B), in the event of a vacancy in the office of coroner, the Governor shall fill the office by appointing a qualified replacement to serve until the earlier of the following:

- (1) the next general election for the office of coroner; or
- (2) the next general election, in which case an election shall be to fill the unexpired term.

In either circumstance, the person appointed by the Governor shall hold office until his successor shall qualify.

(B) If a county coroner is suspended by the Governor upon the coroner's indictment or for other reasons, the chief magistrate of that county shall act as coroner until the suspended coroner is reinstated or until a coroner is elected and qualifies in the next general election for coroners, whichever occurs first.

(C) Except as provided in subsection (B), the chief deputy or second in command of the coroner's office shall act as coroner until the vacancy is filled by the Governor's appointment. While acting as coroner, the chief deputy or second in command is subject to the duties and liabilities incident to the office of coroner and shall receive the same salary as the former coroner at the time of the vacancy.

The Honorable Bobbi Jo O'Neal

Page 8

August 01, 2022

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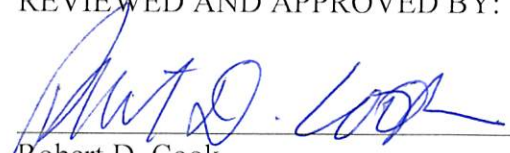
Sincerely,



Matthew Houck

Assistant Attorney General

REVIEWED AND APPROVED BY:



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Solicitor General