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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

April 3, 1998

Robert L. Williams, Chief of Police
Santee Police Department
Post Office Box 757
Santee, South Carolina 29142

Re: Informal Opinion

Dear Chief Williams:

You have asked for an interpretation of S.C. Code Ann. Sec. 23-6-405. You set forth the following facts and circumstances relative to your situation:

1. On August 14, 1997, the Santee Police Department hired a police officer. On August 25, 1997, the Officer was made a full-time police officer.
2. On September 8, 1997, the Santee Police Department sent the officer for two weeks of training as a basic instructor for the training of other officers in the Department.
3. On January 16, 1997, this officer resigned his position with the Santee Police Department. Following a one (1) day notice to the Department, the Chief of Police was informed the officer had gained employment with a neighboring Sheriff's Department. The Sheriff Department did not contact the Santee Police Department until three (3) days afterward asking for a work reference.

Request Letter

4. On March 20, 1998, the Sheriff's Department was notified by the Chief of the Santee Police Department that, pursuant to § 23-6-405, Calhoun County owed the Town of Santee two weeks salary for the Officer's attendance of the SCCJA for a basic instruction certification. His response was that the statute covered the eight week mandatory training, but not a course to train an officer to train other officers.

You wish to know whether a civil action can be filed either in Orangeburg or Calhoun County regarding this matter for reimbursement of Santee's cost for the two week training of the officer.

Law / Analysis

New Section 23-6-405 provides as follows:

Section 23-6-405. (A) For purposes of this section "governmental entity" means the State or any of its political subdivisions.

(B) After July 1, 1997, 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 article must comply with the provisions of this section.

(C) If the 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 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) Under no circumstances shall the governmental entity that employed the officer during the training period or a governmental entity seeking reimbursement from a successive governmental entity employer 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

Chief Williams
Page 4
April 3, 1998

incurred while the officer was attending the mandatory training. (emphasis added).

A number of principles of statutory construction are relevant to your inquiry. First and foremost, in interpreting a statute, the primary purpose is to ascertain the intent of the General Assembly. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). An enactment should be given a reasonable and practical construction, consistent with the purpose and policy expressed in the statute. Hay v. S.C. Tax Comm., 273 S.C. 269, 255 S.E.2d 837 (1979). Words used therein should be given their plain and ordinary meaning. First South Sav. Bank, Inc. v. Gold Coast Associates, 301 S.C. 158, 390 S.E.2d 486 (Ct. App. 1990).

Applying the foregoing rules of statutory interpretation, I must advise that in my judgment, § 23-6-405 does not cover the type of training referenced in your letter. The Act throughout speaks of the "mandatory training as required under this article." It is apparent from reading the Act in its entirety and in accord with its plain language that the General Assembly intended to create a cause of action for reimbursement where one law enforcement agency hires an officer away from another within a certain period of time after that officer has undergone mandatory training. The type of training which is referenced in your letter, however, is not the "mandatory training" contemplated by the Act, but is, instead a voluntary training of officers to train other officers within that Department. Thus, I must agree with the sheriff in this instance that the Act does not cover the type of training to which you refer and thus it is doubtful whether the Act would create a cause of action for reimbursement of the monies expended by your Department for the type of training of the officer which is referenced in your letter.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/an