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# The State of South Carolina



## Office of the Attorney General

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August 23, 1993

John T. Wynn, Ph.D., President  
Williamsburg Technical College  
601 Lane Road  
Kingstree, SC 29556-4197

Dear President Wynn:

You have requested the opinion of this Office as to whether the Area Commission of Williamsburg Technical College has the legal capacity to decline participation in the retirement incentive proviso of this year's Appropriation Act, Act No. 164, Part I § 14P.6, 1993 S.C. Acts \_\_\_\_\_. This law provides for a retirement incentive provided that "[t]he governing body, state agency, ...or political subdivision must adopt a resolution wherein the employer agrees to be liable for funding any costs associated with the retirement incentive." Your request letter attaches a resolution of the State Board for Technical and Comprehensive Education (State Board), which, in part, "...requires the adoption of a similar resolution [providing for the retirement incentive] by each of the technical college area commissions and that each area commission assumes the full liability for the funding of any costs associated with the...incentive for any employee under the jurisdiction of the area commission."

Although § 14P.6 merely states that the state agencies and the other named governmental bodies "may elect" to offer the incentive, this matter as it affects your College appears to be controlled by S.C. Code Ann. § 59-53-20 (1990), which states, in part, as follows:

All personnel employed in the institutions and programs within the jurisdiction and control of the State Board...are designated state employees whether paid in whole or in part by state funds and are subject to the regulations, guidelines and policies of the State Board..., the Budget and Control Board, and the State Personnel System. (Emphasis added).

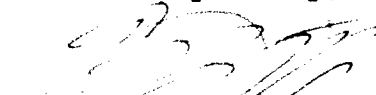
Request Letter

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See also §§ 59-53-20 and 59-53-51; Ops. Att'y Gen. September 6, 1983 (copy enclosed). In addition, the State Board appears to have considerable authority as to monetary matters concerning the technical education system. See Ops. Att'y Gen. September 6, 1983. Because of this authority of the State Board as to employees and monetary matters, the Area Commission of Williamsburg Technical College does not appear to have the authority to decline participation in the retirement incentive program as directed by the State Board resolution. I am not aware of any provisions in the local laws for Williamsburg Technical College that would alter these conclusions.

If you have any questions, please let me know.

Yours very truly,

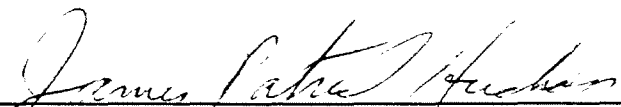


J. Emory Smith, Jr.  
Deputy Attorney General

JESjr:ppw  
Enclosure


CC: Dr. James R. Morris, Jr.

REVIEWED AND APPROVED BY:



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JAMES PATRICK HUDSON  
Chief Deputy Attorney General



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ROBERT D. COOK  
Executive Assistant for Opinions