

The State of South Carolina



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November 19, 1990

Mr. David L. Anderson
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State Budget and Control Board
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Dear Mr. Anderson:

I am writing in response to your question concerning the eligibility of former members of the General Assembly to participate in the State "Plan of Benefits." The General Appropriations Act for 1990-91, Proviso 14.10 provides that "[t]he State Budget and Control Board shall make available to active and retired employees of the State and the public school districts of South Carolina and their eligible dependents group, health, dental, life, accidental death and dismemberment, and disability insurance plans and benefits...." Active members of the General Assembly are employees as defined by §9-1-10(4) of the South Carolina Code of Laws, thus they are entitled to this coverage; however, your question concerns the eligibility of former members of the General Assembly to coverage.

South Carolina Code §2-3-230 provides that any person who has served at least one full term in the General Assembly may participate in the State group health and life insurance program at the rates paid by State employees, while South Carolina Code §8-11-82 allows for participation in the State Health Insurance Plan by members of the General Assembly who leave office or retire with at least eight years credited service in the General Assembly Retirement System by paying the full premium costs as determined by the State Budget and Control Board.

While unusual, it is possible that an individual could serve eight years in the General Assembly without serving a complete term. Additionally, §8-11-82 does not expressly or impliedly re-

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peal §2-3-230. For these reasons it is my opinion that these two statutes are not in conflict, but rather address two different situations. The first addresses a member who has served one full term, regardless of the length of the term. This means that former House members who serve only two year terms would be eligible for coverage in a shorter time than former Senate members who serve four year terms. Former members eligible for coverage under this statute may participate in State group health and life insurance and pay only the rates paid by State employees.

The second statute addresses a member who has eight years of credited service in the General Assembly Retirement System whether or not the member has completed a full term. For example, it is possible that an individual can be elected to serve out more than one unexpired term. This can result in the individual serving eight years yet without ever completing a full term. Additionally, the requirement of eight years credited service does not necessarily mean eight years actual service in the General Assembly. (See §9-9-50 which provides the other ways a member can accumulate credited service.) Former members eligible for coverage under this statute may participate only in the State Health Insurance Plan and must pay the full premium costs.

If a former member of the General Assembly meets the requirements of either statute, the member may elect to participate in the benefits provided under that statute, provided he or she pays the premiums required. Each statute sets different criteria to qualify for participation in the State Health Plan. Statutes that are in pari materia are to be construed together and, if possible, both rendered operable. State Farm Mutual Auto. Insurance Company v. Lindsay, 284 S.C. 472, 328 S.E.2d 80 (App. 1985); Chris J. Yahnis Coastal Inc. v. Stroh Brewery Co., 295 S.C. 243, 368 S.E.2d 64 (1986).

"The cardinal rule of statutory construction is ... to ascertain and effectuate the intent of the legislature." Burns v. State Farm Mutual Automobile Insurance Company, 287 S.C. 520, 377 S.E.2d 596 (1989). The legislature has clearly provided two separate means for former state legislators to qualify for some State benefits. When language is clear and unambiguous, as it is here, it must be held to what it plainly says. Jones v. South Carolina Highway Department, 247 S.C. 137, 146 S.E.2d 166 (1966).

Neither Code section specifies a time period for a former member to make an election to participate. Remedial legislation, such as these statutes appear to be, is generally liberally con-

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strued to include the largest number of potential beneficiaries. Since no election period has been set forth, any former member of the General Assembly who qualifies under either Code section may choose to join the system regardless of the length of time since he has served.

In conclusion, the statutes in question are not in conflict, but merely provide different methods by which former members of the General Assembly may be eligible to participate in the State "Plan of Benefits."

Yours very truly,



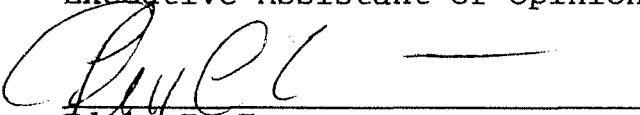
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