

The State of South Carolina



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The Honorable Joyce C. Hearn
Member, House of Representatives
404C Blatt Building
Columbia, South Carolina 29211

Dear Representative Hearn:

You have asked this Office to outline for you the law dealing with the awarding of severance pay pursuant to Article III, § 30 of the State Constitution. You have also asked whether these legal principles would be applicable to a school board.

Your questions are answered by previous opinions issued by this Office. Only recently, in an opinion issued November 15, 1985, this Office summarized an opinion rendered October 10, 1985 as follows:

In the October 10 opinion it was noted that there is a distinction between "severance pay" in the constitutionally prohibited sense and the purchase or "buying out" of an employment contract. Of course, the "buying out" of an employment contract often means simply the relinquishment or settlement of a possible legal claim by way of monetary payment. See, Oxford English Dictionary (1961 ed.), p. 1225. On the other hand "severance pay" as prohibited by Article III, § 30 of the Constitution is an additional payment such as a "bonus" for services already rendered. We believe the foregoing principles stated in the October 10 opinion are legally sound.

Op. Atty. Gen., November 15, 1985 at p. 3. I am enclosing copies of both of these opinions. Of course, as also stated in

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November 15 opinion, the applicability of these legal principles would depend upon the particular facts involved. I am not aware of whether or not a contract or legal settlement is involved in the situation you have referenced.

As to the applicability of these legal principles to a school board, I am enclosing a copy of an opinion dated July 19, 1979 which states as follows with respect to Article III, § 30:

Although this provision by its terms only prohibits action by the General Assembly, it also serves to limit school boards and various other political subdivisions, at least in the exercise of powers delegated to them by the Legislature. See 1954-55, Ops. Atty. Gen., p. 245....

Use of public funds to provide any form of compensation (extra income, insurance payments, pension payments, etc.) for public employees is unconstitutional, if it is greater than that which the State has a contractual or legal obligation to provide.

I hope this information is helpful to you. If I can be of further assistance, please let me know.

With kindest regards, I remain

Very truly yours,



Robert D. Cook
Executive Assistant for Opinions

RDC/an

Enclosures