

1982 WL 189157 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 4, 1982

*1 A. Baron Holmes IV

President

S.C. School for the Deaf and the Blind

Spartanburg, South Carolina 29302

Dear Dr. Holmes:

Your letter of September 11, 1981, regarding the effect of the \$3,000.00 limit on pay increases for state officers and employees found in Section 169 of Act 517 of 1980 (Appropriations Act) has been referred to me for response. I apologize for the delay in responding to your inquiry.

As I understand your letter, you have inquired whether any reduction in longevity pay increases resulting from the \$3,000.00 limitation for FY 1980-1981 should be restored in FY 1981-1982 inasmuch as the limitation is not in effect for FY 1981-1982. The answer to this question is negative.

Relevant Statutes

Section 18 of Part II of Act No. 644 of 1978 provides for longevity increases for state employees in the following terms:

Any state employee covered under the State Classification and Compensation Plan who receives the maximum compensation under his present classification and who has not received a salary increase for at least twenty-four months other than base pay increases shall be eligible for an increase of five percent at the end of such twenty-four months and so long as he remains in such status shall be eligible at the end of every twenty-four months thereafter to receive an additional increase of five percent. No employee shall receive more than four such increases. Raises will be effective on the employee's merit review date. The State Budget and Control Board through the State Personnel Division shall administer the provisions of this program.

Section 18 is contained in the permanent provisions of the 1978-1979 General Appropriations Act and is, consequently, a permanent law.

Section 169 of Act No. 517 of 1980 provides, in pertinent part:

Provided, Further, that notwithstanding any other provisions of this act, including specific line appropriations, no State officer or State employee, from whatever source paid, shall receive an increase in compensation over the fiscal year 1979-80, including base pay, longevity, merit increments, which on an annual basis, would exceed the sum of \$3,000.00.

This proviso is contained in the temporary provisions of the 1980-81 General Appropriations Act and is, consequently, limited in duration to the fiscal year commencing July 1, 1980, and ending June 30, 1981.

Discussion

In the absence of constitutional restraints, the salaries of public officers and employees are subject entirely to legislative control: public officers and employees have no property or contractual rights to any set salary or method of compensation. See [Plowden v. Beattie](#), 185 S.C. 229, 193 S.E. 651 (1937); [O'Shields v. Caldwell](#), 207 S.C. 194, 35 S.E.2d 184 (190-192 (1945); [State ex](#)

[rel. McLeod v. Mills](#), 256 S.C. 21, 180 S.E.2d 638 (1971); [Chicago Patrolmen's Ass'n v. City of Chicago](#), 56 Ill.2d 503, 309 S.E.2d 3, 6 (1974). 67 C.J.S. [Officers](#) § 223 at 714 (1978); [id.](#) § 229 at 729. With exceptions not here relevant (relating to reduction of the compensation of constitutional officers, justices of the Supreme Court and judges of the Circuit Court), there is no constitutional restriction on the right of the General Assembly to reduce the compensation of public officers or employees. The \$3,000.00 limitation on pay increases for state officers and employees provided for in the 1980-81 General Appropriations Act, therefore, was entirely lawful. [Compare, Anderson v. City of Northlake](#), 500 F.Supp. 863 (N.D.Ill. 1980).

*2 The effect of the proviso to Section 169 of Act No. 517 of 1980 was to suspend for the duration of FY 1981 (July 1, 1980-June 30, 1981) the operation of the permanent law (Section 18 of Part II of 1978 Act No. 644) to the extent of any conflict between the two acts. [Plowden v. Beattie, supra](#), 193 S.E. 654-655; [State ex rel. McLeod v. Mills, supra](#), 180 S.W.2d 638. Absent remedial legislation, there is assuredly no legal obligation to restore to the employee the amount of the reduction in compensation effected by this suspension, *pro tanto*, of the permanent longevity compensation act. [Cf. O'Shields v. Caldwell, supra](#), 35 S.E.2d 192 (reduction of public employee's compensation implies and raises no moral obligation to later return the amount of the reduction). Indeed, in view of [Article III § 30 of the South Carolina Constitution](#)^{a1}, it is extremely doubtful that the General Assembly could lawfully restore the amount of any reduction in pay increase resulting from the proviso to the 1980-81 General Appropriations Act. [See id.](#), 35 S.E.2d 191-192; [State ex rel. McLeod v. McLeod](#), 270 S.C. 557, 243 S.E.2d 446 (1978).

Accordingly, the answer to the question you pose in your September 11, 1981, letter, as I understand that question, is negative. Sincerely,

Vance J. Bettis
Assistant Attorney General

Footnotes

[a1](#) [Article III § 30](#) provides, in pertinent part:

The General Assembly shall never grant extra compensation, fee or allowance to any public officer, agent, servant or contractor after service rendered . . .

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