

1981 WL 158257 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 1, 1981

*1 Honorable Herbert Kirsh
Member
House of Representatives
Box 31
Clover, South Carolina 29710

Dear Mr. Kirsh:

At your request, I have reviewed the letter of April 27, 1981, from Mr. R. E. Bridges, Site Manager, Human Services Demonstration Project, to Mr. Frank Sloan of this Office.

Mr. Sloan is absent from the Office during the present week and will continue to be absent during the next week. As I understand from you, an immediate response to the questions presented by Mr. Bridges will be needed by Monday, May 4, and I am undertaking to provide a response.

The Human Services Demonstration Project is funded by appropriations made to the State Reorganization Commission; the amount appropriated, together with federal funds, is fixed at \$315,629.00, which is referred to in Item II, Section 3, Subsection (3)(k), of the General Appropriations Act, 1980-81, and identified as 'Contractual Services.' The services appear to be wholly contracted for except one person who is assigned in the Columbia office and is paid entirely from State funds.

In the light of the above, there is some question as to whether or not the personnel contracted with are, in fact, employees of the State Reorganization Commission.

In my opinion, most probably, they are not. Therefore, assuming this, only the individuals so contracted with need to be counted for possible application of the Human Affairs Commission Economic Act, which requires a minimum of fifteen (15) employees.

It is my further understanding that the advice of Mr. Joe Mack of the State Personnel Division was requested with respect to the various positions involved and that his recommendation was that certain employees be rated upward so as to be paid a greater rate than that for which contracted. The Personnel Division does not consider that these employees (contractual) are subject to the provisions of the Personnel Administration Act and, consequently, the matter of compensation within the limits of the appropriated amount is a matter for the determination of the contracting parties.

The safer course would be to consider that the Human Services Demonstration Project is subject to the State Human Affairs Commission and its authority and to follow the dictates of that policy with respect to compensation. In my view, however, I do not feel that this is necessarily required and, most probably, is not essential.

Very truly yours,

Daniel R. McLeod
Attorney General

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