

1980 WL 120577 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 3, 1980

*1 Honorable John E. Miles
Member
South Carolina Senate
602 W. Calhoun Street,
Sumter, South Carolina 29150

Dear Senator Miles:

You have requested an opinion from this Office as to whether or not proposed legislation setting a minimum wage for law enforcement officers within the State would violate either the provisions of Act No. 283 of 1975, the 'home rule' legislation, or the provisions of the South Carolina Constitution. In my opinion, the bill does not do so as currently drafted.

The power to fix the salaries of public officers and employees exists by virtue of the general power of the State to provide for the public welfare. The power to provide for law enforcement officers is impliedly delegated to local governments pursuant to provisions allowing those governments to provide for police protection. §§ 4-9-30 and 5-7-30, [CODE OF LAWS OF SOUTH CAROLINA](#), 1976. The delegation of such power, however, is not exclusive so as to deprive the General Assembly of the ability to act by general law within the same area. See, e.g., [Kleckley v. Pulliam](#), 265 S.C. 177, 217 S.E.2d 217 (1975). Thus, it would appear that the General Assembly does have the power to set minimum wages for law enforcement officers, including at the local level, by statute. See, 4 MCQUILLIN MUNICIPAL CORPORATIONS §§ 12.174, 12.176; [People ex rel. Moshier, et al. vs. City of Springfield, et al.](#), 370 Ill. 541, 19 N.E.2d 598, (1939). Furthermore, the legislation as proposed does not, in my opinion, violate the State Constitution; the mere fact that legislation singles out one class of public officers for special treatment and utilizes classifications based on population groupings does not in itself violate the constitutional prohibition against special laws where a general law can be made applicable. [People ex rel. Moshier](#); See also, [Elliott v. Sligh](#), 233 S.C. 161, 103 S.E.2d 923 (1958). Inasmuch as the law is of general State-wide application, the only other requirement is that some rational basis exist for the classifications made. [S.C. CONST. art. I, § 3](#); see, e.g., [Hunt v. McNair](#), 255 S.C. 71, 177 S.E.2d 362 (1970).

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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