

1977 S.C. Op. Atty. Gen. 239 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-311, 1977 WL 24651

Office of the Attorney General

State of South Carolina

Opinion No. 77-311

October 3, 1977

*1 The Honorable Syliva Risher
Clerk of the House of Representatives
State House
Columbia, SC 29211

Dear Mrs. Risher:

You have requested an opinion from this Office whether your position as Clerk of the South Carolina House of Representatives is a position which is subject to statutory requirements governing annual leave and sick leave. (§§ 8-11-40 and 8-11-610, 1976 Code).

You are aware of a reference made in the August State Personnel Newsletter to an Opinion from the Attorney General which determined that the sick leave statute does not apply to those persons who are elected on a statewide basis. You are asking if this Opinion would apply to your position.

The basis for the Attorney General's Opinion referred to is the fact that the State's Constitution provides for removal of elected state wide officers through impeachment, or removal by the Governor in certain circumstances. Also, each official elected by the people state wide is subject to appraisal and review of his performance when he is elected and re-elected. Such procedures are exclusive and any rules to the contrary are invalid. A memo covering these points is attached for your information.

Therefore, since you are not elected by direct statewide popular vote, the Attorney General's Opinion would not apply to you. Further, I have been advised by the Comptroller's Office that it is the policy of the Budget and Control Board to treat full-time employees and individuals elected, appointed or hired by the General Assembly, like any other state employee for annual and sick leave purposes. Since you are entitled to these benefits, you would be subject to the related reporting requirements.

I hope this information will be helpful to you.

Sincerely,

George C. Beighley
Assistant Attorney General

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