

1979 WL 43222 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 21, 1979

*1 John W. Parris
Executive Director
S. C. Land Resources Conservation Commission
2221 Devine Street
Suite 222
Columbia, South Carolina 29205

Dear Mr. Parris:

On July 17, 1979, this Office issued an Opinion which advised you that Soil and Water Conservation Districts are governmental subdivisions of this State and that Soil and Water Conservation District Commissioners are not entitled to workmens compensation benefits. Upon further consideration of this matter, we believe that a modification of the latter point is necessary.

As we previously advised you, [§ 42-1-130, Code of Laws of South Carolina \(1976\)](#), specifically excludes from workmens compensation coverage those officers of political subdivisions who ‘ . . . are elected by the people or elected by the Council or other governing body of such . . . political subdivision, who act in purely administrative capacities and are to serve for a definite term of office.’ As we further advised you, Soil and Water District Conservation Commissioners would generally be excluded pursuant to the statute because of their method of selection, the administrative nature of their duties, and the fact that they serve for specific terms of office. [§§ 48-9-610, 48-9-1210, 48-9-1230, and 48-9-1240, Code of Laws of South Carolina \(1976\)](#).

Although District Commissioners would thus generally be excluded from workmens compensation benefits, [§ 42-7-60](#) provides that despite this general prohibition, such officers would be entitled to workmens compensation coverage through the State Fund. That Code Section states:

Notwithstanding anything to the contrary contained in [§ 42-1-130](#), the provisions of this article shall apply to all officers and employees of the State and of any county, municipality, or other political subdivision thereof or any agency or institution of the State which has elected to participate under this article under the provisions of [§ 42-7-50](#).

[§ 42-7-60, Code of Laws of South Carolina \(1976\)](#).

Therefore, officers of political subdivisions of the State, such as Soil and Water District Conservation Commissioners, would be eligible to receive workmens compensation coverage through the State Fund, but not through any other insurance carrier.

Although the Commissioners for Soil and Water Conservation Districts are eligible for workmens compensation insurance coverage through the State Fund, it should be noted that their benefits may prove to be somewhat limited. [§ 48-9-1240 of the Code](#) specifies that the Commissioners shall receive no compensation for their services, but are limited to expenses necessarily incurred in the discharge of their duties. Therefore, since disability benefits are based upon a formula which adjusts the average weekly wage of a claimant, the Commissioners may not qualify for such benefits. [§ 42-9-10, et seq., Code of Laws of South Carolina \(1976\)](#). However, they may be eligible to receive certain medical treatment

despite their lack of wages. § 42-15-60, Code of Laws of South Carolina (1976); 2 Larson, Workmens Compensation Law (1976), § 61.11.

Sincerely,

*2 Keith M. Babcock
Assistant Attorney General

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