

1978 S.C. Op. Atty. Gen. 177 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-144, 1978 WL 22612

Office of the Attorney General

State of South Carolina

Opinion No. 78-144

July 26, 1978

*1 Honorable Earle E. Morris, Jr.
Comptroller General
Wade Hampton Office Building
Columbia, South Carolina 29211

Dear Earle:

Your letter of July 21, 1978, inquires as follows:

‘Agency heads are being paid at the same salary level of fiscal year 1977–78. In view of the fact that the bill will become law effective July 1, 1978, will the salary paid to agency heads be in full as shown in the state appropriations act for the fiscal year, or will it become effective as of the date the bill is signed into law by the Governor?’

By the provisions of Act No. R–60, approved June 28, 1978, agency heads ‘shall continue to receive compensation at the same rate paid for the fiscal year 1977–78 and shall continue to receive compensation at that rate until the Appropriations Act does take effect.’

The General Appropriations Act was not signed by the Governor, but certain items therein were vetoed by him. His vetoes were overridden by action of the General Assembly on July 25, 1978. This date, in my opinion, is the effective date of the Appropriations Act.

Contained in the Appropriations Act are provisions which provided that certain agency heads shall receive increases in compensation ‘effective on the first pay period ending on or after July 1, 1978.’

Any retroactive increases in compensation for public officers and employees is in conflict with [Article III, Section 30, of the Constitution of this State](#). This conclusion was reached by the Supreme Court of South Carolina in the case of McLeod v. McLeod, filed April 13, 1978, and is dispositive of the question raised by you.

I advise therefore that agency heads should continue to receive the compensation provided for them for the fiscal year 1977–78 until the effective date of the Appropriations Act, at which time any increase in salary may be implemented. In the case to which reference is made, the State Supreme Court stated the controlling principle:

‘While the General Assembly ordinarily has the authority to direct that an act operate retroactively, in the case of acts providing compensation for public officers and employees, that authority is limited by [Article III, Section 30, of the Constitution](#).’

Very truly yours,

Daniel R. McLeod
Attorney General

Increases in compensation for certain officials provided for in the 1978–79 General Appropriations Act, to be made effective upon the effective date of the General Appropriations Act, cannot be retroactively granted.

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