

1975 WL 29376 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 7, 1975

\*1 The Honorable P. C. Smith  
State Auditor  
Post Office Box 11333  
Columbia, South Carolina 29211

Dear Mr. Smith:

I am enclosing herewith a copy of a memorandum forwarded to me by the Council of State Governments. It refers to an Order issued by the Chief Justice of the United States Supreme Court which halts enforcement of the 1974 Amendments to the Fair Labor Standards Act. Those Amendments would subject practically all State and local government employees to the wage and hour provisions of the Fair Labor Standards Act. On behalf of this State, I have already joined in the action to test the validity of the Amendments, and the injunction issued by Chief Justice Burger has the effect of stopping enforcement of the law until further notice.

In the meanwhile, I would urge that all departments and agencies of the State continue accurate record keeping so that should the Amendments be ultimately declared constitutional, compliance with its provisions can be made without undue difficulty. I am sure that demand for compliance retroactively would be made in such event and records should be available to document the hours of work during the period in which the Act may not be enforced.

I would suggest also that consideration be given to advising or requiring certain or all agencies to maintain in escrow the amounts which would accrue to personnel had the Federal law continued in effect so that the funds will be available in the event the Act is upheld by the Supreme Court.

I am forwarding copies of this letter also to the Associations of Cities and Counties so that they may take such steps as they may deem advisable.

Very truly yours,

Daniel R. McLeod  
Attorney General

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