

1974 WL 28104 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 4, 1974

***1 In Re: Annual Leave; Change of Agencies; Maximum Accumulated Annual Leave**

Honorable J. Henry Mills
Comptroller General
Columbia, South Carolina

Dear Mr. Mills:

You have inquired as to the maximum accumulated annual leave permitted by law to an employee who works for an agency with an existing merit system permitting accumulation of leave in excess of forty-five days (as of June 2, 1972) when such employee transfers to an agency that limits such accumulation to forty-five days.

Act No. 1348, Acts of 1972, reads in part as follows:

. . . [A]ny employee of a State department having an existing merit system who as of the effective date of this act has accumulated annual leave in excess of forty-five days may carry over and retain such excess leave which shall be the maximum amount the employee may carry over into future years. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess of forty-five days, shall become the employee's maximum carry-over into future years. If the employee further reduces the amount of such leave carried over to forty-five days or less, forty-five days shall become the maximum amount of unused annual leave the employee may thereafter accumulate.

The quoted language states clearly that an employee who has accumulated annual leave in excess of forty-five days under a merit system existing as of June 2, 1972, may maintain such accumulated credits until reduced by use, notwithstanding the 45-day limit imposed on other employees. Nothing in the subject Act qualifies the right involved by excepting from its provisions those who transfer from one agency to another.

In view of the foregoing, it is the opinion of this Office that an over-45-day employee who transfers to another agency is entitled to maintain such accumulated leave until reduced under provisions of Act 1348.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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