CHAPTER 11

State Officers and Employees

ARTICLE 1

General Provisions

**SECTION 8‑11‑10.** Repealed by 2007, Act No. 73, Section 1, eff June 13, 2007.

Editor’s Note

Former Section 8‑11‑10 was entitled “Office hours of departments of State government” and was derived from 1962 Code Section 1‑40; 1958 (50) 1721; 1963 (53) 358 [478]; 1993 Act No. 181, Section 68, eff July 1, 1993; 1996 Act No. 459, Section 6, eff June 5, 1996.

**SECTION 8‑11‑15.** Minimum full‑time workweek; alternative scheduling strategies and alternate work locations authorized.

 (A) The minimum full‑time workweek for employees of state agencies and institutions is thirty‑seven and one‑half hours. The agency or institution may vary an employee’s work schedule through the use of alternative scheduling strategies to meet the needs and service delivery requirements of the agency or institution.

 (B) State agencies may use alternate work locations, including telecommuting, that result in greater efficiency and cost savings.

HISTORY: 1993 Act No. 178, Section 8, eff July 1, 1993; 2002 Act No. 356, Section 1, Pt XI.N, eff July 1, 2002.

Effect of Amendment

The 2002 amendment designated subsection (A) and added subsection (B).

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

**SECTION 8‑11‑17.** Flexible scheduling.

 In conformance with the authorization for use of alternative scheduling strategies for employees of state agencies and institutions pursuant to Section 8‑11‑15, a state agency or institution specifically may use flexible scheduling of the minimum full‑time workweek hours for an employee, including hours before eight‑thirty a.m. and after five p.m., so long as the implementation of flex‑time does not impair the ability of the agency or institution to meet its needs and service delivery requirements.

HISTORY: 2001 Act No. 29, Section 1, eff May 29, 2001.

Code Commissioner’s Note

At the direction of the Code Commissioner,”Notwithstanding the required office hours for the departments of state government as provided in Section 8‑11‑10, and” was deleted from the beginning of this section. Section 8‑11‑10 was repealed by 2007 Act No. 73.

**SECTION 8‑11‑20.** Oath and bonds of certain state employees; blanket departmental bonds.

 All persons who hold or are appointed to any of the positions in the departments of the State government referred to in this section, or who shall be appointed by any of such departments as accountants to investigate and report the condition of any State or county officer, shall take oath of office in the usual form and the constitutional oath and give good and sufficient bond in the form of official bonds as prescribed by Section 8‑3‑30. Such bonds shall be approved and filed as the bonds of other State officers. In the instance of individual bonds to be given pursuant to this section by employees of each of the departments referred to below, the penal sums of such bonds shall be as follows: For each clerk in the office of the Secretary of State, four thousand dollars; for each clerk in the office of the Comptroller General, five thousand dollars; for each clerk in the office of the State Treasurer, ten thousand dollars; for each clerk in the office of the State Superintendent of Education, twenty‑five hundred dollars; for each stenographer or typist in the office of the State Treasurer, twenty‑five hundred dollars; for each Assistant Attorney General, twenty‑five hundred dollars; and for each accountant appointed by any of such departments, five thousand dollars.

 In lieu of the individual bonds as provided above, the heads of the respective departments referred to in this section may, with the approval of the Department of Administration, procure bonds in form to be approved by the Attorney General covering all persons employed in or by such department, including, if practical, such accountants mentioned above. In such event the penal sum of such bonds shall be in such amount as the Department of Administration shall approve.

 Any individual or blanket bonds given pursuant to the requirements of this section shall be executed by a fidelity or surety company licensed to do business in this State. In all cases, the premium or annual payment required to keep such bonds in force and effect shall be paid by the State Treasurer on the warranty of the Comptroller General.

HISTORY: 1962 Code Section 1‑41; 1952 Code Section 1‑41; 1942 Code Section 3060; 1932 Code Section 3060; Civ. C. ‘22 Section 751; Civ. C. ‘12 Section 669; 1906 (25) 25; 1959 (51) 136.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Constitutional provisions relating to oath of office, see SC Const, Art. 6, Sections 4, 5.

LIBRARY REFERENCES

67 C.J.S., Oaths and Affirmations Sections 1‑7.

67 C.J.S., Officers Sections 46, 47, 269, 282, 283.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Attorney General Section 5, Appointment of Assistants.

S.C. Jur. Public Officers and Public Employees Section 24, Bond.

**SECTION 8‑11‑30.** Payment or receipt of salary which is not due.

 (A) It is unlawful for a person:

 (1) to receive a salary from the State or any of its departments which is not due; or

 (2) employed by the State to issue vouchers, checks, or otherwise pay salaries or monies that are not due to state employees, except that monies due to employees of the State or any department of the State earned during the month of December may be paid either just before or just after Christmas.

 (B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 1‑42; 1952 Code Section 1‑42; 1942 Code Section 3071‑1; 1941 (42) 311; 1993 Act No. 184, Section 145, eff January 1, 1994.

Effect of Amendment

The 1993 amendment rewrote this section so as to change the maximum term of imprisonment to conform to the classification established for each offense.

CROSS REFERENCES

Rule that extra compensation is not permitted for public officers, see SC Const, Art 3, Section 30.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 79, All Officers and Public Employees.

Attorney General’s Opinions

Discussion of unearned comp time and payment of salary not due for certain staff members employed with the John de la Howe School. S.C. Op.Atty.Gen. (November 17, 2014) 2014 WL 6705713.

**SECTION 8‑11‑33.** Withholding or deducting pay from state employee’s wages.

 Notwithstanding any other provision of law, a state agency that has its payroll processed by the Office of the Comptroller General is authorized to withhold or deduct any portion of a state employee’s wages when:

 (1) the State of South Carolina or a state agency that has its payroll processed by the Office of the Comptroller General in its role as an employer is required or empowered to do so by state or federal law; or

 (2) an overpayment of wages to an employee as a result of a miscalculation or other bona fide error has occurred.

 Prior to any deduction being made pursuant to this section, the employee must receive advance written notice of the deduction, the reason for the deduction, and the actual dollar amount or percentage of wages which will be deducted during one or more pay periods.

HISTORY: 2009 Act No. 29, Section 3, eff June 2, 2009.

**SECTION 8‑11‑35.** Salary payment schedule; maximum salaries; dual compensation; reports; exception.

 (A) Except as otherwise provided by law, appropriations for compensation of state employees must be paid in twice‑monthly installments to the person holding the position. To provide a regular and permanent schedule for payment of employees, the payroll period begins on June 2 of the prior fiscal year with the first pay period ending on June 16 of the prior fiscal year. The payroll period continues thereafter on a twice‑monthly schedule as established by the Department of Administration. This schedule must continue from one fiscal year to another without interruption, on a twice‑monthly basis. The Department of Administration may approve changes to this schedule where circumstances are considered justifiable.

 (B) The appropriated salaries for specified positions means the maximum compensation for the position, except as specifically provided in other provisions of the annual general appropriations act or other provisions of law, and if the head of a department is able to secure the services for a particular position or work at a lower rate than the salary specified in the annual general appropriations act, the agency head is authorized to pay a lower salary.

 (C) An employee of a state department or institution must not be paid any compensation from any other department of the state government except as approved under the provisions of Regulation 19‑702.09 of the South Carolina Code of Regulations, and an employee of a department or institution must not be paid travel expenses by any other department or institution without approval of the agency by which he is regularly employed.

 (D) The Comptroller General, after June thirtieth of each year, shall report to the Senate Finance Committee and the House Ways and Means Committee the names of all employees receiving dual compensation and the amounts received. The report shall list information under the primary employing agency, and in the format which lists employees under the requesting or secondary agency.

 (E) The provisions of Regulation 19‑707.02 of the South Carolina Code of Regulations and Section 8‑13‑750 do not apply to employees hired for one hundred twenty days or fewer.

HISTORY: 2002 Act No. 356, Section 1, Pt XI.H, eff July 1, 2002.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 8‑11‑40.** Sick leave; leave where employee attacked; leave for sick family member.

 (A) All full‑time state employees in FTE positions are entitled to fifteen days’ sick leave a year with pay. Sick leave is earned by full‑time state employees in FTE positions at the rate of one and one‑fourth days a month and may be accumulated, but no more than one hundred eighty days may be carried over from one calendar year to another. The department or agency head is authorized to grant additional sick leave in extenuating circumstances upon approval of the Department of Administration. All part‑time state employees in FTE positions are entitled to sick leave prorated on the basis of fifteen days a year subject to the same carry‑over specified in this section. If an employee transfers from one state agency to another, his sick leave balance also is transferred. The Department of Administration may promulgate regulations in accordance with law as may be necessary to administer the provisions of this section, including the power to define the use of sick leave.

 (B) State employees in FTE positions who are physically attacked while in the performance of official duties and suffer bodily harm as a result of the attack must be placed on administrative leave with pay by their employers rather than sick leave. The period of administrative leave for each incident may not exceed one hundred eighty calendar days.

 (C) Employees earning sick leave as provided in this section may use not more than ten days of sick leave annually to care for ill members of their immediate families. For purposes of this section, the employee’s “immediate family” means the employee’s spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren.

HISTORY: 1962 Code Section 1‑42.2; 1968 (55) 2691; 1974 (58) 2364; 1977 Act No. 186 Section 1; 1983 Act No. 151 Part II Section 35; 1985 Act No. 58 Section 1; 1987 Act No. 67 Section 1, eff May 1, 1987; 1988 Act No. 524, Section 1, eff May 18, 1988; 1991 Act No. 53, Section 1, eff May 27, 1991; 1991 Act No; 171, Part II, Section 65, eff June 12, 1991; 1999 Act No. 100, Part II, Section 77, eff July 1, 1999; 2004 Act No. 295, Section 3, eff August 16, 2004.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1987 amendment added provisions in the third paragraph regarding use of sick leave to care for ill members of employees’ immediate families.

The 1988 amendment rewrote the third paragraph redefining “immediate family”.

The 1991 amendment by Act No. 53 Section 1, added the last sentence in the second paragraph providing that the period of administrative leave per incident may not exceed 180 calendar days.

The 1991 amendment by Act No. 171, Part II, Section 65, in the third paragraph increased the number of days an employee may use to care for ill members of his family from five days to eight days.

The 1999 amendment, in the third undesignated paragraph, added “brother, sister, grandparent” to the definition of “immediate family.”

The 2004 amendment rewrote this section.

CROSS REFERENCES

Sick leave, state human resources regulations, see S.C. Code of Regulations R. 19‑710 et seq.

Transfer of accumulated sick and annual leave on transfer of employees within legislative department agencies, see Section 8‑11‑45.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

Treatises and Practice Aids

Employment Coordinator Benefits Section 11:33, South Carolina.

Attorney General’s Opinions

Budget and Control Board is authorized to implement formula for prorating state employees accrued leave time. Leave time may be used by state employees to supplement Workers Compensation temporary total disability payments to restore injured employee to compensation leave that he or she enjoys when employee is able to work full‑time. 1984 Op Atty Gen, No. 84‑133, p. 318.

Maternity leave procedure for Highway Patrol Personnel. 1978 Op Atty Gen, No 78‑45, p 71.

Sick leave accumulated by County employees of the Family Court system cannot be transferred to the State personnel system when these employees become State employees pursuant to Act 690 of 1976 (The Judicial Reform Act). 1976‑77 Op Atty Gen, No 77‑204, p 155.

State officers, elected on a State‑wide basis, are not subject to the sick‑leave statute. 1975‑76 Op Atty Gen, No 4475, p 335.

Directors/presidents of Technical Education Centers are State employees and are, therefore, subject to provisions relating to salary supplements applicable to such employees. 1974‑75 Op Atty Gen, No. 4171, p 230.

The word “day” as contained in this section [Code 1962 Section 1‑42.2] means a calendar or civil day consisting of 24 hours from midnight to midnight. 1970‑71 Op Atty Gen, No 3187, p 159.

Sick leave terminates at end of employment. Sick leave granted to State employees by this section [Code 1962 Section 1‑42.2] terminates at the end of employment, even though it may be accumulated during employment. 1969‑70 Op Atty Gen, No 3054, p 349.

Sick leave may be used only for sickness of the employee and may not be used for sickness or death in the family. 1967‑68 Op Atty Gen, No 2557, p 252.

Sick leave is to be prorated on a monthly basis. 1967‑68 Op Atty Gen, No 2557, p 252.

Sick leave for State employees who work less than a full year is to be prorated on the number of months of employment. 1967‑68 Op Atty Gen, No 2557, p 252.

**SECTION 8‑11‑41.** Sick leave: application to all state agencies, departments and institutions; auditing of sick leave records.

 The provisions of Section 8‑11‑40 shall apply to all state agencies, departments and institutions and shall be administered by each such agency, department and institution pursuant to rules and regulations adopted by the Department of Administration. The sick leave records of all agencies, departments and institutions coming under the provisions of this section and Section 8‑11‑40 shall be subject to audit by the Department of Administration.

HISTORY: 1977 Act No. 186 Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

**SECTION 8‑11‑45.** Transfer of accumulated leave upon transfer of legislative employees.

 Notwithstanding any other provision of law, any legislative employee who transfers from one agency of the General Assembly to another shall be permitted to transfer all accumulated annual and sick leave regardless of the employment status to which transferred.

 The provisions of this section shall be effective commencing January 1, 1980.

HISTORY: 1980 Act No. 519, Part II, Section 11.

CROSS REFERENCES

Provision for transfer of sick leave balance on transfer of employee from one state agency to another, see Section 8‑11‑40.

**SECTION 8‑11‑46.** Transfer of accumulated leave upon transfer between state agency and school district.

 An employee of a state agency transferring to a school district of this State or a school district employee transferring to a state agency is permitted to transfer to and retain at his new employer all sick leave he accumulated at his former employer regardless of his employment status at the new employer. Sick leave not to exceed sixty days lost by a school district employee as a result of changing employment from the school district to a state agency or by a state employee as a result of changing employment from a state agency to a school district is restored if the employee was employed by the school district or the state agency after June 28, 1984, and is employed on June 30, 1991.

HISTORY: 1990 Act No. 612, Part II, Section 63, eff June 13, 1990 (became law without the Governor’s signature); 1991 Act No. 171, Part II, Section 55, eff June 12, 1991.

Effect of Amendment

The 1991 amendment added the second sentence, restoring up to sixty days of sick leave for certain employees.

**SECTION 8‑11‑50.** Compensatory time for working on legal holidays.

 A State employee, except employees of agencies following academic schedules, who is required to work on a legal holiday shall be given compensatory time at the convenience of the agency in which employed within ninety days of such holiday. Employees following academic schedules who are required to work on a legal holiday shall be given compensatory time at the convenience of the agency in which employed within one year from the date of the holiday. Permanent employees who do not work a normal Monday through Friday workweek shall receive no more nor any fewer number of holidays than those employees who work the normal Monday through Friday workweek. All State employees whose positions are nonexempt as defined by the Fair Labor Standards Act and who are not allowed to take compensatory leave, earned for working on a legal holiday, within the ninety‑day period or the one‑year period in the case of employees who follow academic schedules, shall be compensated for the holiday by the employing agency, at the straight hourly pay rate of the employee, no later than the second regular pay period following the last day of the time period prescribed in which compensatory time must be given. Provided, however, that the ninety day period referred to above may be extended for an additional ninety days upon a satisfactory showing to the Department of Administration that because of limited staffing compliance with the original ninety day limit is not feasible and upon approval of such extension by the department.

HISTORY: 1962 Code Section 64‑151.2; 1975 (59) 272; 1979 Act No. 58.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

A list of legal holidays, see Sections 53‑5‑10 et seq.

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

RESEARCH REFERENCES

Treatises and Practice Aids

Guide to Employment Law and Regulation 2d Section 61:10, Payment of Wages.

Attorney General’s Opinions

Directors/presidents of Technical Education Centers are State employees and are, therefore, subject to provisions relating to salary supplements applicable to such employees. 1974‑75 Op Atty Gen, No 4171, p 230.

**SECTION 8‑11‑55.** Compensatory time for working overtime.

 Any state employee who is required to work overtime during any particular week may, as a result, be given compensatory time by his agency. Compensatory time, if granted, must be in accordance with the Federal Fair Labor Standards Act of 1938 as amended.

HISTORY: 1981 Act No. 178 Part II Section 4; 1986 Act No. 540, Part II, Section 39, eff June 18, 1986 (became law without the Governor’s signature).

Effect of Amendment

The 1986 amendment substantially revised this section.

Federal Aspects

Federal Fair Labor Standards Act of 1938, as amended, see 29 U.S.C.A. Sections 201 et seq.

**SECTION 8‑11‑57.** Declaration of state of emergency or order to close state offices due to hazardous weather; paid leave.

 Notwithstanding any other provision of law, whenever the Governor declares a state of emergency or orders all or some state offices closed due to hazardous weather conditions he may authorize up to five days leave with pay for affected state employees who are absent from work due to the state of emergency or the hazardous weather conditions.

HISTORY: 2002 Act No. 356, Section 1, Pt IX.D, eff July 1, 2002.

**SECTION 8‑11‑60.** Removal of officers elected by General Assembly.

 The manner and method of removal of State officers elected by the General Assembly shall be according to Section 3 of Article XV of the Constitution of South Carolina of 1895; provided, however, that should any grand jury present or return a true bill against any such officer on account of his official conduct, then the Governor may suspend such officer until the next General Assembly.

HISTORY: 1962 Code Section 1‑43; 1952 Code Section 1‑43; 1942 Code Section 3097; 1932 Code Section 3097; 1930 (36) 1219.

CROSS REFERENCES

Provision for removal of executive or judicial officer by governor on address of General Assembly, see SC Const, Art 15, Section 3.

Provision for removal of officer for incapacity, misconduct, or neglect of duty, see SC Const, Art 3, Section 27.

Removal of certain officers by the Governor, see Section 1‑3‑240.

LIBRARY REFERENCES

67 C.J.S., Officers Sections 117, 118, 145, 186.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 42, Authority to Terminate.

**SECTION 8‑11‑65.** Leaves of absence to be organ donor.

 (A) All officers and employees of this State or a political subdivision of this State who wish to be an organ donor and who accrue annual or sick leave as part of their employment are entitled to leaves of absence from their respective duties without loss of pay, time, leave, or efficiency rating for one or more periods not exceeding an aggregate of thirty regularly scheduled workdays in any one calendar year during which they may engage in the donation of their organs. Saturdays, Sundays, and state holidays may not be included in the thirty‑day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved.

 (B) The officer or employee must show documentation from the attending physician of the proposed organ donation before leave is approved that confirms that the employee is the donor.

HISTORY: 2002 Act No. 347, Section 1, eff July 19, 2002; 2009 Act No. 29, Section 1, eff June 2, 2009.

Effect of Amendment

The 2009 amendment, in subsection (A), in the first sentence substituted “calendar” for “fiscal”.

RESEARCH REFERENCES

Treatises and Practice Aids

Employment Coordinator Benefits Section 11:33, South Carolina.

**SECTION 8‑11‑70.** Assistance in selling United States savings bonds to employees; deductions from pay.

 All departments and institutions of the State may assist in the selling of United States savings bonds to their employees and such assistance shall include the making of deductions from their payrolls in such amounts as may be voluntarily authorized by the employees. Deductions so authorized by any employee, under this provision, shall be held in the State Treasury to the credit of the account of the employee until a sum sufficient to purchase one or more bonds is reached. The head of the department shall then purchase one or more bonds and deliver the same to the employee, in lieu of payment otherwise to the extent of the deduction authorized.

HISTORY: 1962 Code Section 1‑48; 1952 Code Section 1‑48; 1947 (45) 311.

**SECTION 8‑11‑75.** Repayment of deferred compensation plan loans.

 An employee participating in any plan under the Deferred Compensation Program may repay a plan loan made by the employee through payroll deductions from the employee’s compensation. At the request of a state employee the Comptroller General may by payroll deduction collect and pay over to the appropriate entity the amount designated by the employee to repay a deferred compensation plan loan.

HISTORY: 2002 Act No. 356, Section 1, Pt XI.Q, eff July 1, 2002.

**SECTION 8‑11‑80.** Deduction for group life, hospital and other insurance.

 The Comptroller General may, upon request of employees of the State, make deductions from the compensation of the employees for the payment of premiums for life, hospital, and other types of insurance plans as are in force and a member of the deduction system on the effective date of this act. The Comptroller General may not make deductions where deductions are made for less than two hundred fifty state employees in any particular plan. The Comptroller General shall pay over to the insurance company, or its agents designated to receive the funds, all amounts so collected or withheld. No part of the cost of the insurance or expenses incidental to the payroll deduction must be borne by the State, nor must any liability whatsoever be incurred by the State in connection with the deduction, nor may the State in any way aid insurance companies in the solicitation of policies by expressly or implicitly endorsing any particular insurance plan or company.

HISTORY: 1962 Code Section 1‑49; 1952 Code Section 1‑49; 1947 (45) 311; 1959 (51) 144; 1972 (57) 3013; 1977 Act No. 219 Pt II Section 20; 1978 Act No. 644 Part II Section 21; 1985 Act No. 201, Part II, Section 74.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 40, Agreements Affecting Compensation.

Attorney General’s Opinions

State technical colleges may only take deductions from employees’ wages that are specifically mentioned in statute. S.C. Op.Atty.Gen. (Jan. 18, 2011) 2011 WL 380161.

It is unlikely that the State can refuse to grant certain deductions from the payroll of State employees. 1975‑76 Op Atty Gen, No 4311, p 129.

**SECTION 8‑11‑81.** Repealed by 1992, Act No. 364, Section 4, eff July 1, 1992.

Editor’s Note

Former Section 8‑11‑81 was derived from 1986 Act No. 540, Part II, Section 21.

Former Section 8‑11‑81 provided for the provision of insurance for active and retired employees of State and of public school districts, and the maintenance of Health Insurance Account and Dental Insurance Account. For similar provisions, see Sections 1‑11‑710 et seq.

**SECTION 8‑11‑82.** Repealed by 1992 Act No. 364, Section 4, eff July 1, 1992.

Editor’s Note

Former Section 8‑11‑82 was derived from 1984 Act No. 512, Part II, Section 12; 1985 Act No. 201, Part II, Section 14; 1986 Act No. 540, Part II, Section 7; 1987 Act No. 170, Part II, Section 33.

Former Section 8‑11‑82 concerned the effect of retirement on eligibility for coverage under state health insurance plan. For similar provisions, see Sections 1‑11‑710 et seq.

**SECTION 8‑11‑83.** Payroll deduction for dues of certain organizations.

 (A) The Comptroller General and all other state agencies, upon request of employees of the State, shall make deductions from the compensation of the employees for the payment of membership dues for the South Carolina State Employees’ Association and for the South Carolina Troopers’ Association. The Comptroller General and state agencies shall pay over to the respective associations all amounts so collected or withheld. Retirees from a state agency also may have withheld from their state retirement benefits their membership dues for the South Carolina State Employees’ Association and for the South Carolina Troopers’ Association. No deduction is permitted if the associations at any time engage in collective bargaining or encourage their members to strike.

 (B) Membership dues or any portion of them which are deducted pursuant to this section may not be paid to a national or multistate association or group.

 (C) Dues for the South Carolina Law Enforcement Officers’ Association also may be deducted from the compensation of state employees and retirees and paid over to this association in the same manner other dues under this section are deducted and paid over. The same restrictions and conditions that apply to the other deductions under this section also apply to the deductions of dues for the South Carolina Law Enforcement Officers’ Association.

 (D) Membership dues for the Society of Former Agents of the State Law Enforcement Division also may be deducted from the compensation of state retirees and paid over to this association in the same manner other dues are deducted and paid pursuant to this section. The same restrictions and conditions that apply to the other deductions enumerated in this section also apply to the deduction of dues for the Society of Former Agents of the State Law Enforcement Division.

HISTORY: 1987 Act No. 98 Section 1, eff May 18, 1987 (became law without the Governor’s signature); 1995 Act No. 111, Section 1, eff June 12, 1995; 2016 Act No. 277 (H.5270), Section 1, eff June 15, 2016.

Effect of Amendment

The 1995 amendment revised this section to authorize payroll deductions for the South Carolina Troopers’ Association’s dues and the South Carolina Law Enforcement Officers’ Association’s dues and to provide that such dues may not be paid to any national or multi‑state association or group.

2016 Act No. 277, Section 1, added paragraph designators (A) through (C); made nonsubstantive changes in (B) and (C); and added (D), relating to membership dues for the Society of Former Agents of the State Law Enforcement Division.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 40, Agreements Affecting Compensation.

Attorney General’s Opinions

State technical colleges may only take deductions from employees’ wages that are specifically mentioned in statute. S.C. Op.Atty.Gen. (Jan. 18, 2011) 2011 WL 380161.

NOTES OF DECISIONS

In general 1

1. In general

Legislative scheme for payroll deductions for charitable contributions which excludes contributions to South Carolina Education Association and its members does not violate association’s speech and associational rights under First Amendment and does not violate equal protection under Fourteenth Amendment because challenged legislative enactments were reasonably based on rational distinctions. South Carolina Educ. Ass’n v. Campbell (C.A.4 (S.C.) 1989) 883 F.2d 1251, rehearing denied, certiorari denied 110 S.Ct. 1129, 493 U.S. 1077, 107 L.Ed.2d 1035.

**SECTION 8‑11‑84.** Repealed by 1992 Act No. 364, Section 4, eff July 1, 1992.

Editor’s Note

Former Section 8‑11‑84 was derived from 1989 Act No. 124, Section 1.

Former Section 8‑11‑84 provided for the transfer of funds from the dental to health insurance account. For similar provisions, see Sections 1‑11‑710 et seq.

**SECTION 8‑11‑85.** Repealed by 1989, Act No. 189, Part II, Section 29.

Editor’s Note

Former Section 8‑11‑85 was entitled “Payment of health insurance premiums for retired state employees and public school employees” and was derived from 1979 Act No. 199, Part II Section 27.

**SECTION 8‑11‑90.** Deductions for Federal taxes.

 The Comptroller General, or any state department, institution, or agency of state government authorized by the Department of Administration to make disbursements from their own bank accounts shall make deductions for taxes required to be deducted or withheld by the federal government, from the compensation of state employees, and pay over to the Director of Internal Revenue, or any agency designated to receive such funds, all collections so deducted or withheld.

HISTORY: 1962 Code Section 1‑49.1; 1954 (48) 1566; 1982 Act No. 334.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 40, Agreements Affecting Compensation.

Attorney General’s Opinions

State technical colleges may only take deductions from employees’ wages that are specifically mentioned in statute. S.C. Op.Atty.Gen. (Jan. 18, 2011) 2011 WL 380161.

**SECTION 8‑11‑91.** Deductions for charitable contributions.

 The Comptroller General shall, and the governing body of any school district may, upon written authorization by any officer or employee, deduct from the salary or wages of any such officer or employee contributions to be paid over to eligible nonprofit charitable organizations, or groups of such organizations, in the manner prescribed by Sections 8‑11‑92 through 8‑11‑97. Chief finance officers of state agencies and institutions maintaining payroll accounts separate from the office of the Comptroller General likewise shall make deductions from the salaries and wages of their officers and employees for such contributions.

HISTORY: 1981 Act No. 149, Section 1.

CROSS REFERENCES

Regulatory authority, see Section 8‑11‑97.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 40, Agreements Affecting Compensation.

NOTES OF DECISIONS

In general 1

1. In general

Legislative scheme for payroll deductions for charitable contributions which excludes contributions to South Carolina Education Association and its members does not violate association’s speech and associational rights under First Amendment and does not violate equal protection under Fourteenth Amendment because challenged legislative enactments were reasonably based on rational distinctions. South Carolina Educ. Ass’n v. Campbell (C.A.4 (S.C.) 1989) 883 F.2d 1251, rehearing denied, certiorari denied 110 S.Ct. 1129, 493 U.S. 1077, 107 L.Ed.2d 1035.

**SECTION 8‑11‑92.** Qualifying criteria for charitable organizations; Secretary of State to determine eligibility.

 A. Nonprofit charitable organizations for which such payroll deductions may be made shall include any nonprofit, eleemosynary corporation, association or organization which is organized and operated exclusively for charitable, health, or welfare services to the public and meets all of the following qualifications:

 (1) Is and continues to be organized and qualified to solicit and operate under the laws of this State, pursuant to Chapter 55 of Title 33;

 (2) Provide direct and continuing services to or on behalf of the citizens of the State. For purposes of this section, “direct and continuing services” means: (a) services other than legal advocacy services which are provided directly to and specifically for one individual or one family; or, (b) services which are in the nature of medical research; or, (c) services which involve the collection and administration of funds by umbrella organizations for other organizations, all of which qualify under this act;

 (3) Is recognized as tax exempt under Section 501(c)(3) of Title 26, United States Code (the Internal Revenue Code of 1954, as amended);

 (4) Is not an organization contemplated by Section 501(c)(4), 501(c)(5), or 501(c)(6) of Title 26, United States Code (the Internal Revenue Code of 1954, as amended) and is not an organization primarily engaged in the propagation of a religious faith or belief; this prohibition shall include, but not be limited to, organizations primarily engaged in lobbying or political activity;

 (5) Is operated without discrimination in regard to all persons served, and complies with all requirements of law, including administrative regulations, respecting nondiscrimination and equal opportunity regarding its officers, staff, employees and volunteers;

 (6) Has neither a parent organization nor a subsidiary organization which fails to meet qualifications herein contained in items (1) through (5).

 B. The Secretary of State shall determine on an annual basis, based upon the applications of nonprofit, charitable organizations and groups of such organizations, those which are eligible to participate in payroll deductions for state‑employee contributions. His decision shall be final unless determined by a court of competent jurisdiction to be arbitrary, capricious or unsupported by any credible evidence.

HISTORY: 1981 Act No. 149, Section 1.

CROSS REFERENCES

Minimum level of employee participation required as prerequisite to making payroll deductions for contributions to charitable organizations, see Section 8‑11‑93.

Regulatory authority, see Section 8‑11‑97.

Written authorization of officers and employees for payroll deductions for charitable contributions, see Section 8‑11‑91.

NOTES OF DECISIONS

In general 1

1. In general

Legislative scheme for payroll deductions for charitable contributions which excludes contributions to South Carolina Education Association and its members does not violate association’s speech and associational rights under First Amendment and does not violate equal protection under Fourteenth Amendment because challenged legislative enactments were reasonably based on rational distinctions. South Carolina Educ. Ass’n v. Campbell (C.A.4 (S.C.) 1989) 883 F.2d 1251, rehearing denied, certiorari denied 110 S.Ct. 1129, 493 U.S. 1077, 107 L.Ed.2d 1035.

Motivating factor in enactment of Sections 8‑11‑92 to 8‑11‑98 was denial of payroll deduction benefits to teachers’ association because of its affiliation with national organization, advocacy of unpopular legislative proposals, endorsement of candidates, and other content‑related reasons, thereby violating First and Fourteenth Amendments to Federal Constitution. South Carolina Educ. Ass’n v. Campbell, 1988, 697 F.Supp. 908, reversed 883 F.2d 1251, rehearing denied, certiorari denied 110 S.Ct. 1129, 493 U.S. 1077, 107 L.Ed.2d 1035. Constitutional Law 2002; Constitutional Law 4199

**SECTION 8‑11‑93.** Minimum level of employee participation required.

 Because of the high cost to be borne by the State in providing administrative services regarding payroll deductions for contributions to charitable organizations, even though an organization may be eligible under Section 8‑11‑92 no such deductions shall be authorized by the Comptroller General, or by the chief finance officer of a state agency or institution maintaining separate payroll accounts, unless at least ten percent of the employees or two hundred employees, whichever shall be the lesser, who are paid from such payroll account, have made a written authorization to deduct contributions to an eligible charitable organization or group of such organizations.

HISTORY: 1981 Act No. 149, Section 1.

CROSS REFERENCES

Regulatory authority, see Section 8‑11‑97.

Written authorization of officers and employees for payroll deductions for charitable contributions, see Section 8‑11‑91.

Attorney General’s Opinions

State technical colleges may only take deductions from employees’ wages that are specifically mentioned in statute. S.C. Op.Atty.Gen. (Jan. 18, 2011) 2011 WL 380161.

**SECTION 8‑11‑94.** Names of contributors and amounts to be held confidential; exception for tax purposes.

 The names of state employees authorizing deductions of charitable contributions and the amount of the individual contributions shall be confidential and shall not be made public. This prohibition against disclosure shall not bar the Secretary of State, State Auditor or state or federal tax authorities from access to all information necessary to verify or establish the eligibility, the tax exempt status or the tax liability of such organizations or groups of such organizations. The tax returns and books and records of such organizations or groups of such organizations shall be made available at all times necessary to determine the status and eligibility of any such charitable organization or groups of such organizations.

HISTORY: 1981 Act No. 149, Section 1.

CROSS REFERENCES

Regulatory authority, see Section 8‑11‑97.

Written authorization of officers and employees for payroll deductions for charitable contributions, see Section 8‑11‑91.

**SECTION 8‑11‑95.** Two charitable solicitation drives permitted per year.

 The Comptroller General, and the chief finance officers of state agencies and institutions maintaining separate payroll accounts, shall permit two time periods during any calendar year for general charitable‑solicitation drives within state offices, agencies and institutions.

HISTORY: 1981 Act No. 149, Section 1.

CROSS REFERENCES

Regulatory authority, see Section 8‑11‑97.

Written authorization of officers and employees for payroll deductions for charitable contributions, see Section 8‑11‑91.

**SECTION 8‑11‑96.** When authorization for payroll deductions may be made or terminated; deductions may be prorated.

 Authorization for payroll deductions for charitable contributions may be made or terminated at any payroll period by the officer or employee concerned; provided, that either the Comptroller General or the chief finance officer concerned may require that deductions be made pro rata from each payroll check or in such other manner as will reduce to a minimum both the cost of handling such deductions and any interference with regular payroll procedures.

HISTORY: 1981 Act No. 149, Section 1.

CROSS REFERENCES

Regulatory authority, see Section 8‑11‑97.

Written authorization of officers and employees for payroll deductions for charitable contributions, see Section 8‑11‑91.

**SECTION 8‑11‑97.** Promulgation of regulations.

 The Comptroller General, and the chief finance officers concerned, shall promulgate regulations necessary and expedient to accomplishing the purposes of Sections 8‑11‑91 through 8‑11‑96.

HISTORY: 1981 Act No. 149, Section 1.

CROSS REFERENCES

Written authorization of officers and employees for payroll deductions for charitable contributions, see Section 8‑11‑91.

Attorney General’s Opinions

Section 8‑11‑97, Code of Laws (1976) does not place an absolute requirement on the Comptroller General to promulgate regulations, if such regulations are not necessary, expedient, or reasonably convenient and useful to accomplish the purposes of Act 149 of 1981 [Section 8‑11‑91 et seq.]; if regulations are promulgated, the procedures required by the Administrative Procedures Act must be followed. 1981 Op Atty Gen, No 81‑78, p 99.

**SECTION 8‑11‑98.** Deductions for payment to credit union.

 The Comptroller General or any official of a political subdivision of the State which is authorized to disburse funds in payment of salaries or wages of public officers or employees shall, upon written authorization, deduct from the salary or wages of such officer or employee the amounts authorized for payment to any lawfully chartered credit union. The monies deducted shall be paid promptly to the designated organization.

 Subject to any regulations prescribed by the Department of Administration, the Comptroller General may prescribe any procedures necessary to carry out the provisions of this section.

HISTORY: 1981 Act No. 149, Section 1.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 40, Agreements Affecting Compensation.

Attorney General’s Opinions

State technical colleges may only take deductions from employees’ wages that are specifically mentioned in statute. S.C. Op.Atty.Gen. (Jan. 18, 2011) 2011 WL 380161.

**SECTION 8‑11‑99.** Payroll deduction for parking fees on state‑owned or state‑operated property.

 The Comptroller General, at the request of a state employee, may by payroll deduction collect and pay over to the appropriate entity fees assessed the employee for parking on state‑owned or state‑operated property.

HISTORY: 1993 Act No. 164, Part II, Section 34A, eff July 1, 1993.

**SECTION 8‑11‑100.** Representation on boards and commissions when new judicial circuits created.

 Notwithstanding any other provisions of the law to the contrary, when a new judicial circuit is created, and representation on a board or commission of this State is now provided for by judicial circuits, then and in that event should the newly‑created judicial circuit or an existing circuit not have a member, such new or existing circuit shall be entitled to representation on such board or commission. The member shall be elected or appointed to such board or commission as is now provided for by law. Any member elected or appointed under the provisions of this section shall be so elected or appointed for a term consistent with the procedure now prescribed for such board or commission.

HISTORY: 1962 Code Section 1‑49.2; 1962 (52) 1885.

Attorney General’s Opinions

Incumbent represents new judicial circuit if a resident thereof. Where a new judicial circuit is created and representation upon a public body is based upon judicial circuits, the incumbent continues to represent the new judicial circuit if he is a resident thereof, or the altered, old judicial circuit if he was a resident of that circuit. 1963‑64 Op Atty Gen, No 1608, p 25.

**SECTION 8‑11‑110.** Alcoholism.

 The State of South Carolina recognizes alcoholism as a treatable illness and for the purposes of State policy:

 (a) Alcoholism is defined as an illness in which the employee’s job performance is impaired as a direct consequence of persistent and excessive use of alcohol.

 (b) State employees having the illness or a drinking problem will receive the same careful consideration and offer of assistance that is presently extended to employees having any other illness.

 (c) In view of this policy, the State is hopeful that employees who suspect they may have an alcoholism problem, even in its early stages, will be encouraged to seek diagnosis and, when indicated, follow through with prescribed treatment.

 (d) The State’s concern with alcoholism is strictly limited to its effects on the employee’s performance on the job. The State neither condones nor promotes social drinking. Whether an employee chooses to drink socially is a decision of the individual.

 (e) No State employee will have his job security or promotion opportunities jeopardized by his request for counseling or referral assistance.

 (f) The confidential nature of medical records of employees with drinking problems will be preserved in the same manner as all other medical records.

 (g) Sick leave will be granted for the purpose of participating in public and private treatment and rehabilitation programs which have been approved by the South Carolina Department of Mental Health.

 (h) Employees may voluntarily seek counseling and information on an entirely confidential basis by contacting agencies designated to provide such services.

HISTORY: 1962 Code Section 1‑42.3; 1972 (57) 2810.

CROSS REFERENCES

Applicability to Legislative Audit Council staff members of provisions relative to confidentiality of agency records, see Section 2‑15‑62.

Using and scheduling sick leave, see S.C. Code of Regulations R. 19‑710.04.

LIBRARY REFERENCES

67 C.J.S., Officers Sections 108‑113, 120‑126.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 52, Dismissal.

**SECTION 8‑11‑120.** Posting notice of job vacancies.

 In addition to any other requirement provided by law, when a job vacancy occurs in any state office, agency, department, or other division of the executive branch of state government, the appointing authority must post a notice with the Office of Human Resources of the Department of Administration and the South Carolina Department of Employment and Workforce at least five working days before employing a person to fill the vacancy. The posting must give notice of the job vacancy, describe the duties to be performed by a person employed in that position, and include any other information required by law.

 For purposes of this section, “appointing authority” shall have the same meaning as in Section 8‑11‑220.

HISTORY: 1962 Code Section 1‑42.4; 1972 (57) 2429; 1990 Act No. 484, Section 1, eff May 29, 1990; 2009 Act No. 29, Section 2, eff June 2, 2009.

Code Commissioner’s Note

Pursuant to the directive to the Code Commissioner in 2010 Act No. 146, Section 122, “Department of Employment and Workforce” was substituted for all references to “Employment Security Commission”, and “Executive Director of the Department of Employment and Workforce” or “executive director” was substituted for all references to the “Chairman of the Employment Security Commission” or “chairman” that refer to the Chairman of the Employment Security Commission, as appropriate.

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1990 amendment rewrote this section, dividing it into subsections (A)‑(C), to provide that notification of vacancies in classified positions must be given at least seven working days prior to the close of the application period, to prescribe the information which must be contained in such notification, and to set out what positions are exempt from these requirements.

The 2009 amendment rewrote this section.

LIBRARY REFERENCES

67 C.J.S., Officers Sections 74‑79.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 35, Method of Filling a Vacancy.

**SECTION 8‑11‑130.** State agencies authorized to provide aid to employees in moving personal effects.

 Any agency of the State Government is hereby authorized to provide reasonable aid or assistance to its regular employees in moving their personal effects from one town or place to another town or place when their headquarters are so moved in the course of the business of the agency.

HISTORY: 1976 Act No. 709 Part II Section 14.

LIBRARY REFERENCES

67 C.J.S., Officers Section 225.

**SECTION 8‑11‑135.** Payment of moving expenses of new employees.

 A state agency may pay the cost of moving the personal and household effects for newly‑employed personnel if all of the following conditions are met:

 (a) The new employee’s place of residence is outside of the State of South Carolina at the time of employment by the agency.

 (b) The agency can demonstrate that paying these costs is necessary to fill the position.

 (c) The maximum payment in any instance to any new employee may not exceed five thousand dollars.

 (d) The payment is certified by the agency head (or the board or commission chairman if the new employee is the agency head) as the total paid by the agency toward the total moving cost incurred by the new employee.

 (e) [Deleted]

HISTORY: 1985 Act No. 201, Part II, Section 10; 1992 Act No. 501, Part II Sections 45A, 45B, eff July 1, 1992; 2005 Act No. 164, Section 5, eff June 10, 2005.

Effect of Amendment

The 1992 amendment deleted item “(e) The amount certified by the agency is approved by the Budget and Control Board.”, and added the last paragraph.

The 2005 amendment deleted the last undesignated paragraph which stated “The State Auditor, in the regular agency audit, shall determine the agency’s compliance with the requirements of this section for payments for moving expenses”.

**SECTION 8‑11‑140.** Minimum wage for state employees and public school bus drivers.

 Notwithstanding any other provisions of law, effective March 1, 1978, and for the balance of fiscal year 1977‑78, no state employee or public school bus driver shall receive as compensation from the State less than two dollars and sixty‑five cents per hour.

HISTORY: 1978 Act No. 423.

LIBRARY REFERENCES

67 C.J.S., Officers Sections 219 et seq.

**SECTION 8‑11‑145.** Use of sick or annual leave in conjunction with workers’ compensation under certain circumstances.

 If there is an accidental injury arising out of and in the course of employment with the State, which is covered under Workers’ Compensation, an employee who is not eligible for or who has exhausted his paid administrative leave shall make an election to use either accrued leave time (sick or annual, or both) or Workers’ Compensation benefits awarded in accordance with Title 42. Before the election is made, the effect of each available option on the employee’s future leave must be explained to him by his employer. The election must be in writing and signed by the employee and the person who explains the options to him. The election of the employee is irrevocable as to each individual incident.

 When an employee is placed on paid administrative leave or has elected to use all or any portion of accrued leave time and the leave time is exhausted before the employee can return to work, the employee is entitled to Workers’ Compensation benefits effective at the time the specified amount of leave is exhausted.

 An employee who is placed on paid administrative leave or who has elected to use accrued leave time, under the provisions of this section, is eligible for the payment of medical costs provided by Workers’ Compensation benefits.

 An employee also may elect to receive Workers’ Compensation on a prorated basis in conjunction with sick or annual leave, or both, in accordance with a proration formula established by the Department of Administration. Before this election is made, the effect of this option on the employee’s future leave must be explained to him by his employer. The election must be in writing and signed by the employee and the person who explains the option to him.

HISTORY: 1984 Act No. 512, Part II, Section 10; 1985 Act No. 58, Section 2; 1988 Act No. 310, Section 1, eff February 24, 1988.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1988 amendment added provisions requiring employers to explain the effect of available options, and requiring the election to be in writing and signed by the employee and employer.

**SECTION 8‑11‑155.** Use of sick leave to care for adopted child.

 (A) An adoptive parent who is employed by this State, its departments, agencies, or institutions may use up to six weeks of his accrued sick leave to take time off for purposes of caring for the child after placement. The employer shall not penalize an employee for requesting or obtaining time off according to this section.

 (B) The leave authorized by this section may be requested by the employee only if the employee is the person who is primarily responsible for furnishing the care and nurture of the child.

HISTORY: 1990 Act No. 437, Section 1, eff April 25, 1990.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

Treatises and Practice Aids

Employment Coordinator Benefits Section 11:33, South Carolina.

**SECTION 8‑11‑160.** Agency Head Salary Commission; salary increases for agency heads.

 All boards and commissions are required to submit justification of an agency head’s performance and salary recommendations to the Agency Head Salary Commission. This commission consists of four appointees of the chairman of the House Ways and Means Committee, four appointees of the chairman of the Senate Finance Committee, and three appointees of the Governor with experience in executive compensation.

 Salary increases for agency heads must be based on recommendations by each agency board or commission to the Agency Head Salary Commission and their recommendations to the General Assembly.

HISTORY: 1985 Act No. 201, Part II, Section 3A; 1987 Act No. 20 Section 1, eff March 30, 1987.

Effect of Amendment

The 1987 amendment replaced Executive Salary and Performance Evaluation with the Agency Head Salary Commission, and made other minor changes.

CROSS REFERENCES

Additional duties of Agency Head Salary Commission, see Section 8‑11‑165.

Department of Employment and Workforce, creation, executive director, appointment, removal, compensation, see Section 41‑29‑20.

Director and Deputy Directors to receive compensation as established in this section, see Section 23‑6‑40.

Employment and Workforce Appellate Panel, creation, purpose, powers, composition, see Section 41‑29‑300.

Prior approval by Commission required for agency head to be dually employed by another state agency or institution of higher education, see Section 8‑11‑170.

Secretary of Commerce, see Section 13‑1‑30.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 39, Setting and Altering Compensation.

Attorney General’s Opinions

Simultaneously serving as a member of the Agency Head Salary Commission and on the Florence County Election Commission would not contravene the dual office holding prohibitions of the State Constitution. 1989 Op Atty Gen, No. 89‑71, p 186.

**SECTION 8‑11‑162.** Technical College Presidents covered by authority of Agency Head Salary Commission.

 For purposes of Section 8‑11‑160 and the other provisions related to the authority of the Agency Head Salary Commission, Technical College Presidents are covered by the authority of the commission.

HISTORY: 2011 Act No. 74, Pt VI, Section 12, eff August 1, 2011.

**SECTION 8‑11‑165.** Salary and fringe benefit survey for agency heads; limits on salaries of agency employees and presidents of a technical college; agency head salary adjustments; new members of agency governing board to attend performance appraisal training.

 It is the intent of the General Assembly that a salary and fringe benefit survey for agency heads must be conducted by the Office of Human Resources of the Department of Administration every three years. The staff of the office shall serve as the support staff to the Agency Head Salary Commission.

 No employee of agencies reviewed by the Agency Head Salary Commission may receive a salary in excess of ninety‑five percent of the midpoint of the agency head salary range or the agency head actual salary, whichever is greater, except on approval of the State Budget and Control Board, and except for employees of higher education technical colleges, colleges, and universities.

 No president of a technical college may receive a salary in excess of ninety‑five percent of the midpoint of the agency head salary range or the agency head actual salary, whichever is greater, except on approval of the Agency Head Salary Commission and the State Budget and Control Board.

 The Agency Head Salary Commission may recommend to the State Budget and Control Board that agency head salaries be adjusted to the minimum of their salary ranges and may recommend to the board that agency head salaries be adjusted when necessary up to the midpoints of their respective salary ranges. These increases must be based on criteria developed and approved by the Agency Head Salary Commission.

 All new members appointed to a governing board of an agency where the performance of the agency head is reviewed and ranked by the Agency Head Salary Commission shall attend the training in agency head performance appraisal provided by the commission within the first year of their appointment unless specifically excused by the chairman of the Agency Head Salary Commission.

HISTORY: 1989 Act No. 189, Part II, Section 2, eff June 8, 1989 (became law without the Governor’s signature); 1995 Act No. 145, Part II, Section 3, eff June 29, 1995; 2008 Act No. 353, Section 2, Pt 20B.1, eff July 1, 2008.

Code Commissioner’s Note

At the direction of the Code Commissioner, reference in the first paragraph of this section to the former State Budget and Control Board was changed to the Department of Administration pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015. Other references in this section to the former Budget and Control Board have not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

Effect of Amendment

The 1995 amendment substituted “Office of Human Resources” for “Human Resource Management Division” and added the third paragraph regarding the salary of a president of a technical college.

The 2008 amendment added at the end of the second undesignated paragraph “, and except for employees of higher education technical colleges, colleges, and universities.

CROSS REFERENCES

Agency Head Salary Commission, see Section 8‑11‑160.

**SECTION 8‑11‑170.** Agency head dually employed by another state agency; timely payment.

 (A) An agency head may not be dually employed by another state agency or institution of higher education without prior approval by the Agency Head Salary Commission and the State Budget and Control Board.

 (B) An employee who is approved for dual employment must be paid in a timely manner. The secondary agency must make payment of funds approved for and earned under dual employment within forty‑five days of the beginning of the employment.

HISTORY: 1993 Act No. 164, Part II, Section 46A, eff July 1, 1993; 2002 Act No. 356, Section 1, Pt XI.G, eff July 1, 2002.

Code Commissioner’s Note

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

Effect of Amendment

The 2002 amendment designated subsection (A) and made nonsubstantive changes and added subsection (B).

CROSS REFERENCES

Agency Head Salary Commission, see Section 8‑11‑160.

Department of Administration, see Section 1‑11‑10 et seq.

FTE positions, Office of Human Resources, state human resources regulations, see S.C. Code of Regulations R. 19‑701.10.

**SECTION 8‑11‑175.** Blood drives and donations.

 (A) State agencies may periodically arrange for volunteer blood drives for their agencies. The blood drives may be held at those times and places as may be determined by the agency head and the agency’s employees are permitted to participate in the blood drive during the employee’s work hours at those times as may be determined by the agency without using accrued leave.

 (B) A state employee desiring to donate blood at a time other than an agency arranged volunteer blood drive must be excused from work by his employer during the employee’s regular work hours for the purpose of making the donation without prejudice to the employee and no leave or make‑up time may be required. Any employee desiring to donate blood as provided in this subsection shall notify his employer of the scheduled donation and the amount of time needed for the donation as far in advance as may be practicable. The agency may deny the employee’s request for time to donate pursuant to this subsection if the absence of the employee would create an extraordinary burden on the agency. In considering the employee’s request, the agency shall take into consideration such factors as the necessity and type of blood donation and any other factor the agency considers appropriate. The agency may as a condition of approving the request require the employee to provide documentation of the donation.

HISTORY: 1990 Act No. 429, Section 1, eff April 24, 1990.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

Treatises and Practice Aids

Employment Coordinator Benefits Section 11:33, South Carolina.

**SECTION 8‑11‑177.** Funeral leave.

 (A) An employee, upon request, must be granted up to three consecutive workdays of leave with pay on the death of any member of the employee’s immediate family. Immediate family is defined as the spouse, great‑grandparents, grandparents, parents, legal guardians, brothers, spouse of brothers, sisters, spouse of sisters, children, spouse of children, grandchildren, great‑grandchildren of either the employee or the spouse.

 (B) An employee requesting leave for a death in the immediate family may be required by the employing agency to submit a statement stating the name and relationship of the deceased.

HISTORY: 2004 Act No. 295, Section 1, eff August 16, 2004.

**SECTION 8‑11‑180.** Paid leave for certified disaster service volunteers with the American Red Cross.

 A state employee entitled to annual leave pursuant to Article 7 of this chapter who is a certified disaster service volunteer of the American Red Cross may be granted leave from work with pay for not more than ten work days in each calendar year to participate in specialized disaster relief services for the American Red Cross. Upon the approval of the employee’s employer, the employee must be released from work for this function upon request of the American Red Cross for the services of that employee. This leave is in addition to other leave to which the employee is entitled.

HISTORY: 2000 Act No. 361, Section 1, eff June 14, 2000.

**SECTION 8‑11‑185.** Reduction in work force applicant pool; priority consideration for vacancies or new positions; prohibition on filling vacancy without seeking qualified person from pool.

 (A) Of the funds appropriated to the Office of Human Resources of the Department of Administration under “Recruitment ‑ Other Operating Expenses” in the annual general appropriations act of the State, the office may use up to five thousand dollars to create and operate a reduction in force applicant pool.

 (B) If a state agency has a reduction in personnel or positions for any reason including, but not limited to, internal restructuring, the agency must report to the Office of Human Resources for inclusion of information on all employees affected by this reduction in the office’s reduction in force applicant pool. The information must include, but is not limited to, the name and social security number of the person, the position held, job classification, grade, years of experience, and the person’s EPMS status for those wishing to be considered for other positions.

 (C) An agency seeking to fill a vacancy or a new position must obtain information from the Office of Human Resources’ reduction in force applicant pool provided to the office pursuant to subsection (A). An agency shall provide priority consideration to employees terminated due to a reduction in force for any vacancy or new position in the same classification, classification series, or position category held at the time of layoff. An agency is prohibited from filling the position if the agency does not first seek to fill the position from among these qualified employees provided by the Office of Human Resources.

HISTORY: 1995 Act No. 145, Part II, Section 61A, eff July 1, 1995.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Notes of Decisions

Recalls 1

1. Recalls

Provision of Department of Corrections’ “reduction in force” policy, which permitted employees of unified school district within Department who opted for retirement to be rehired in temporary capacity following 15‑day break in service, violated rights of covered employees to be recalled for vacant positions for period of one year if position for which they were eligible became vacant. Bell v. South Carolina Dept. of Corrections (S.C. 2012) 397 S.C. 320, 724 S.E.2d 675. Prisons 396; Public Employment 311

**SECTION 8‑11‑186.** Reporting interim new full‑time employment positions.

 A state agency shall report to the appropriate Senate Finance and House of Representatives Ways and Means subcommittees an interim new full‑time employment position when authorization is requested from the Budget and Control Board. The report must include, but not be limited to, justification of need for the position and a detailed explanation of the source of funding.

HISTORY: 1999 Act No. 100, Part II, Section 25, eff July 1, 1999.

Code Commissioner’s Note

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

**SECTION 8‑11‑187.** Reporting full‑time employment positions transferred to or received from another state agency.

 A state agency shall report to the appropriate Senate Finance and House of Representatives Ways and Means subcommittees a full‑time employment position transferred to or received from another state agency. The report must include, but not be limited to, justification for the transfer and a detailed explanation of the source of funding.

HISTORY: 1999 Act No. 100, Part II, Section 26, eff July 1, 1999.

**SECTION 8‑11‑190.** Use of public funds to reward state employees.

 State agencies and institutions must be allowed to spend public funds on employee plaques, certificates, and other events including, but not limited to, meals and similar types of recognition to reward innovations or improvements by individual employees or employee teams that enhance the quality of work or productivity or as a part of employee development programs of their agency or institution.

HISTORY: 1995 Act No. 145, Part II, Section 25, eff June 29, 1995.

**SECTION 8‑11‑192.** Mandatory state agency furlough programs; consultation and guidance services.

 In a fiscal year in which the general funds appropriated for a state agency are less than the general funds appropriated for that agency in the prior fiscal year, or in a fiscal year in which an agency that is funded by other funds projects other funds collections to be less than in the prior fiscal year, or whenever the General Assembly or the Executive Budget Office implements a midyear across‑the‑board budget reduction, agency heads may institute employee furlough programs of not more than ten working days in the fiscal year in which the deficit is projected to occur.

 The furlough program must be:

 (1) inclusive of all employees in an agency or within a designated department or program regardless of source of funds or place of work, including all classified and unclassified employees in the designated area; or

 (2) based upon pay band for classified employees and based upon pay rate for unclassified employees within the agency or designated department respectively.

 If the state agency will incur costs for overtime under the federal Fair Labor Standards Act, law enforcement employees and correctional employees may be exempted from a mandatory furlough. Employees who provide direct patient or client care and front‑line employees who deliver direct customer services may be exempted from a mandatory furlough. The mandatory furlough must include the agency head. Constitutional officers are exempt from mandatory furlough. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency head, but under no circumstances should the agency close completely.

 During this furlough, affected employees shall be entitled to participate in the same state benefits as otherwise available to them except for receiving their salaries. As to those benefits that require employer and employee contributions including, but not limited to, contributions to the South Carolina Retirement System or the optional retirement program, the state agencies, institutions, and departments are responsible for making both employer and employee contributions if coverage would otherwise be interrupted; and as to those benefits which require only employee contributions, the employee remains solely responsible for making those contributions.

 Placement of an employee on furlough under this provision does not constitute a grievance or appeal under the State Employee Grievance Procedure Act.

 In the event the reduction for the state agency, institution, or department is due solely to the General Assembly transferring or deleting a program, this section does not apply. The implementation of a furlough program authorized by this section shall be on an agency‑by‑agency basis. Agencies may allocate the employee’s reduction in pay over the balance of the fiscal year for payroll purposes regardless of the pay period within which the furlough occurs. In the event that an agency implements both a voluntary furlough program and a mandatory furlough program during the fiscal year, furlough days taken voluntarily shall count toward furlough days required by the mandatory furlough.

 The Department of Administration shall promulgate guidelines and policies, as necessary, to implement the provisions of this section. State agencies shall report information regarding furloughs to the Office of Human Resources of the State Budget and Control Board.

 The Office of Human Resources of the Department of Administration must provide consultation and guidance to each state agency implementing a furlough or reduction in force regarding the long term career development of its employees and the potential financial benefit of implementing a furlough program or reduction in force.

 The provisions of this section do not apply to employees of those state agencies or institutions covered by Section 8‑11‑193, and Section 8‑11‑193, rather than this section continues to apply to those employees in the manner provided by law.

HISTORY: 2009 Act No. 8, Section 1, eff May 6, 2009.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 8‑11‑193.** Employee furloughs.

 Notwithstanding any other provision of law, in a fiscal year in which the general funds appropriated for an institution of higher education are less than the general funds appropriated for that institution in the preceding fiscal year, or whenever the General Assembly or the Executive Budget Office implements a midyear across‑the‑board budget reduction, agency heads for institutions of higher education and the State Board for Technical and Comprehensive Education through policy and procedure for the Technical College System may institute employee furlough programs of not more than twenty working days in the fiscal year in which the deficit is projected to occur. The furlough must be inclusive of all employees regardless of source of funds, place of work, or tenure status, and must include employees in classified positions and unclassified positions as well as agency heads. Scheduling of furlough days, or portions of days, shall be at the discretion of the agency or individual institution. During the furlough, affected employees shall be entitled to receive the same state benefits as otherwise available to them except for receiving their salaries. For benefits which require employer and employee contributions including, but not limited to, contributions to the South Carolina Retirement System or the optional retirement program, institutions will be responsible for making both employer and employee contributions during the time of the furlough if coverage would otherwise be interrupted. For benefits which require only employee contributions, the employee remains solely responsible for making the contributions. Placement of an employee on furlough pursuant to this section does not constitute a grievance or appeal under the State Employee Grievance Act. In the event an institution’s reduction is due solely to the General Assembly transferring or deleting a program, this section does not apply. The implementation of a furlough program authorized by this section shall be on an institution by institution basis.

HISTORY: 2008 Act No. 353, Section 2, Pt 1.A.1, eff July 1, 2008.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 8‑11‑194.** Employee benefit costs not funded from general fund.

 Any agency of state government whose operations are covered by funds from other than general fund appropriations must pay from such other sources a proportionate share of the employer costs of retirement, social security, workers’ compensation insurance, unemployment compensation insurance, health and other insurance for active and retired employees, and any other employer contribution provided by the State for the agency’s employees.

HISTORY: 2002 Act No. 356, Section 1, Pt IX.I, eff July 1, 2002.

**SECTION 8‑11‑195.** State employee furlough policies.

 (A) During a fiscal year when the Board of Economic Advisors officially estimates and the State Budget and Control Board formally certifies that revenues likely will result in a deficit in excess of the combined reserves in the Capital Reserve Fund and the General Fund Reserve, the board may authorize the furlough of employees of state agencies, institutions, or departments. However, a furlough only may be authorized by unanimous consent of the board and only as a last resort alternative to a reduction in force of state employees. Furloughs may be authorized for the time considered necessary by the board but may not exceed ten days in a fiscal year nor more than two days in a pay period. No furlough may be authorized before January fifteenth of the fiscal year in which the deficit is projected to occur.

 (B) If the Budget and Control Board authorizes a furlough, to the extent practical it must be statewide in nature and inclusive of all employees regardless of source of funds, place of work, or tenure. The furlough must include employees in classified positions and unclassified positions as well as agency heads.

 (C) Employees placed on furlough are on leave without pay status, without a break in service, with full continuation of all insurance benefits, and with continuing accumulation of sick and annual leave benefits.

HISTORY: 1995 Act No. 145, Part II, Section 23, eff June 29, 1995.

Code Commissioner’s Note

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

**SECTION 8‑11‑196.** Hiring of employees to fill temporary grant positions.

 Notwithstanding another provision of law, state agencies and institutions may, at their discretion, hire employees to fill temporary grant positions specified in federal grants, public charity grants, private foundation grants, research grants, and positions with time‑limited funding approved or authorized by the appropriate state authority in accordance with the following provisions:

 (1) only funds authorized within the approved federal grant, public charity grant, private foundation grant, research grant, time‑limited funds for a specified project, or grant generated revenue can be used to pay the salaries, or benefits, or both, of temporary employees hired under this provision;

 (2) temporary grant or time‑limited positions, employees, and the conditions of their employment must be reported in accordance with provisions developed by the Executive Budget Office;

 (3) positions established under this provision must be limited to and must not exist beyond the duration of the time‑limited project, grant, or a subsequent renewal of it. However, at the discretion of any agency, other funds may be used to fund continued employment between the expiration of one grant or time‑limited project and the subsequent renewal of the same or similar grant or time‑limited project. When the grant, time‑limited project, or a subsequent renewal ends, temporary grant or time‑limited project employees must be terminated and their positions will cease to exist. Temporary grant or time‑limited project employees will be exempt from the provisions of Sections 8‑17‑310 through 8‑17‑380. State agencies and institutions must terminate all temporary grant or time‑limited project positions when funding is terminated, or is insufficient to continue payments under the conditions of the grant or time‑limited project;

 (4) temporary grant or time‑limited project employees may be eligible for benefits, excluding permanent or probationary employment status, not to exceed benefits available to permanent state employees if the funds are available within the grant, time‑limited project, or that the use of grant generated revenue is determined to be appropriate by the agency or institution;

 (5) temporary grant or time‑limited project employees are employed at will. The use of grant generated revenue shall not alter the at will employment relationship of temporary grant or time‑limited project employees. The temporary grant or time‑limited project employees are not entitled to compensation beyond the date of termination, but for the part of the grant or time‑limited project that has been performed; and

 (6) discretionary determinations by a state agency or institution to hire an employee pursuant to this section are final and not subject to administrative or judicial appeal.

HISTORY: 2002 Act No. 356, Section 1, Pt XI.I, eff July 1, 2002; 2009 Act No. 29, Section 4, eff June 2, 2009.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Effect of Amendment

The 2009 amendment, in the first complete sentence in item (3), substituted “any agency, other funds” for “the public institutions of higher education, including the technical colleges and schools, grant generated revenue” and added “or time‑limited project” in two places.

**SECTION 8‑11‑197.** Mileage reimbursement rate.

 Employer‑paid reimbursements paid to a state officer or employee for mileage expenses incurred in the performance of official duties must be paid at a per mile rate that is equal to the standard business mileage rate established by the Internal Revenue Service as that rate is periodically adjusted by the Internal Revenue Service.

HISTORY: 1999 Act No. 100, Part II, Section 34, eff July 1, 1999.

**SECTION 8‑11‑198.** Per diem from more than one source.

 Per diem may not be paid to a public officer or state employee from more than one source for any one calendar day.

HISTORY: 2002 Act No. 356, Section 1, Pt VI.I, eff July 1, 2002.

**SECTION 8‑11‑199.** American Bar Association dues payment or reimbursement.

 State agencies and institutions are prohibited from paying or reimbursing professional dues payments for individuals to the American Bar Association.

HISTORY: 2002 Act No. 356, Section 1, Pt XI.L, eff July 1, 2002.

ARTICLE 3

Personnel Administration

**SECTION 8‑11‑200.** Reimbursement of travel expenses to persons interviewing for state employment.

 Reimbursement of travel expenses to persons interviewing for state employment, whether paid from state‑appropriated, federal, or other funds, is allowed in accordance with the following provisions:

 (1) Travel expenses, within the limitations applicable to state employees, may be paid to individuals being considered for employment by a state government agency if the head of the interviewing agency makes a specific, formal determination in each case that all of the following apply:

 (a) The significance of the position to be filled is such that it warrants incurring the costs.

 (b) The costs do not exceed the expense of conducting the interview at the interviewee’s home area or elsewhere.

 (c) Qualified candidates residing within South Carolina are considered before candidates from other states are sought.

 (2) Where the position to be filled is that of an agency head, the determination referenced in item (1) must be made by the chairman of the board or commission of the interviewing agency.

HISTORY: 1995 Act No. 145, Part II, Section 24, eff June 29, 1995.

**SECTION 8‑11‑210.** Declaration of purpose.

 It is the purpose of this article to establish a State Personnel Division under the Department of Administration to administer a comprehensive system of personnel administration responsive to the needs of the employees and agencies and essential to the efficient operation of State Government. It shall be applicable to all State agencies, departments, institutions, boards, commissions and authorities, except as may hereinafter be exempted.

HISTORY: 1975 (59) 212.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Limitation on increases in the number of state employees, see Section 11‑11‑420.

Provisions of this Chapter not applicable to SC Edisto Development Authority, see Section 13‑21‑30.

Provisions of this Chapter not applicable to SC Midlands Authority, see Section 13‑19‑30.

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 39, Setting and Altering Compensation.

S.C. Jur. Public Officers and Public Employees Section 55, State Budget and Control Board, Division of Human Resource Management.

Attorney General’s Opinions

A physician’s assistant can carry out administrative tasks and conduct routine tests such as checking blood pressure, weight, etc., for a new patient but cannot perform any task requiring the exercise of independent medical judgment or medical interpretation; moreover, all tasks performed by a physician’s assistant must be individually approved by the State Board of Medical Examiners; a physician’s assistant cannot write patient care orders except when a physician is physically present and dictates to the assistant; under no circumstances can a physician’s assistant prescribe medicine. 1978 Op Atty Gen, No. 78‑149, p 182.

A faculty member of a state college or university may appeal to the State Employee Grievance Committee once he has completed six months of satisfactory service, or after an official extension of not to exceed three months and he is appraised satisfactorily. 1978 Op Atty Gen, No 78‑150, p 183.

**SECTION 8‑11‑220.** Definitions.

 As used in this article:

 1. “Agency” shall mean any department, institution, commission, board or any other unit of government of the State.

 2. “Appointing authority” shall mean any person having power by law, or by lawfully delegated authority, to make an appointment of a person for employment to any position in the State service.

 3. “Agency head” shall mean the chief executive of a State agency in whom is vested final appointing authority for the agency.

 4. “Classified service” shall mean all of those positions in the State service which are subject to the classification policies and regulations as authorized by the provisions of this article.

 5. “Unclassified service” shall mean all of those positions in the State service which are not subject to the position classification policies and regulations.

 6. “Exempt positions” shall mean all of those positions in the State service which are exempt from the provisions of this article as specified in Section 8‑11‑260.

 7. “Position” shall mean any employment requiring the paid services of one person, or any office or employment in any agency requiring specific duties to be performed by one person.

 8. “Academic personnel” shall mean presidents, provosts, vice‑presidents, deans, teaching and research staffs, and others of academic rank employed by the State educational institutions of higher learning, or medical institutions of education and research.

HISTORY: 1975 (59) 212.

CROSS REFERENCES

Categories of unclassified positions, see S.C. Code of Regulations R. 19‑706.1.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 35, Method of Filling a Vacancy.

**SECTION 8‑11‑230.** Creation, duties and administrative head of State Personnel Division; duties of Department of Administration.

 There is hereby created as a part of the Department of Administration, the State Personnel Division (hereinafter referred to as the Division), which shall be responsive to agency needs for all personnel functions and which shall implement the provisions of this article subject to the policies and direction of the Board.

 The administrative head of the Division shall be the State Personnel Director who shall be appointed by the Board. The State Personnel Director may employ such staff as deemed necessary to efficiently carry out the provisions of this article within authorized funding.

 The Department of Administration is authorized and directed to:

 1. Establish procedures for the regulation of compensation of all State employees where not otherwise regulated directly by the General Assembly. Such procedures and regulations shall distinguish between two categories of positions, classified and unclassified. A uniform Classification and Compensation Plan shall be provided for such regulation of all positions in the classified service. Such additional procedures shall be provided as in its judgment adequately and equitably regulate unclassified positions.

 2. Develop and revise as necessary in coordination with agencies served specifications for each position in the classified service concerning the minimum educational training, experience and other qualifications considered necessary to assure adequate performance of the duties and responsibilities. The Board and agency heads will require adherence to these specifications. The Board may waive training and experience requirements where circumstances warrant upon request and adequate justification by the agency head.

 3. After coordinating with agencies served, develop fair employment policies to assure that appointments to position in the State classified service are made on the basis of merit and fitness without regard to race, sex, age, religion, political affiliation or national origin.

 4. Operate a recruitment and applicant referral program as an optional service available to all agencies.

 5. Validate selection procedures for the classified service in accordance with sound personnel practices and the requirements of federal law or regulation.

 6. After coordination with agencies served, develop policies and programs concerning leave with or without pay, hours of work, fringe benefits (except State retirement benefits), employee/management relations, performance appraisals, grievance procedures, employee awards, dual employment, disciplinary action, separations, reductions in force, and other conditions of employment as may be needed.

 7. Provide assistance and coordinate with the agencies served training and career development programs for State employees.

 8. Enter into agreement with any political subdivision of the State to furnish services and facilities in the administration of its personnel program. Any such agreement shall provide for the reimbursement to the State of the reasonable cost of the services and facilities furnished. All political subdivisions of the State are hereby authorized to enter into such agreements.

 9. Establish and maintain a central personnel data system on all State employees covered by this article, both classified and unclassified, and in coordination with agencies served, determine that data to be recorded on employees and positions and the procedures and forms to be used by all agencies in reporting data.

 10. Develop a position management data system to assure conformity with Board policies and State law.

 11. Delegate to the heads of the State agencies served such of the above responsibilities as may be appropriate in such form as the Board may determine.

HISTORY: 1975 (59) 212.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Central human resources data system, state human resources regulations, see S.C. Code of Regulations R. 19‑701.05.

State employee grievance procedure, see Section 8‑17‑310 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 22, Dual Public Employment.

S.C. Jur. Public Officers and Public Employees Section 39, Setting and Altering Compensation.

S.C. Jur. Public Officers and Public Employees Section 55, State Budget and Control Board, Division of Human Resource Management.

S.C. Jur. Public Officers and Public Employees Section 56, Director of Division of Human Resource Management.

**SECTION 8‑11‑240.** Board shall approve policies and programs.

 The Board shall exercise final approval on policies and programs incident to the administration of the provisions of this article and shall hear appeals of appointing authorities relating to the administration of the provisions of Section 8‑11‑230 that are not otherwise provided for by other statutes.

HISTORY: 1975 (59) 212.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

Attorney General’s Opinions

In the absence of express statutory authority, it is doubtful whether classified State employees could negotiate lower salaries with their employers except in certain situations, such as budget reductions, where appropriated funds may not be available. The General Assembly could, if it so desired, expressly authorize such salary reductions. Arguably, city and county employees can, under present law, negotiate lower salaries with their employers subject to certain limitations such as one found in Section 4‑9‑30(7). However, the more cautious approach would require express statutory authority with respect to these employees as well. With respect to school districts, again it is doubtful whether these entities can, under present law, negotiate lower salaries with their employees except in contemplation of loss by funding or other similar circumstances. Thus, if school districts desire to negotiate lower salaries with their employees, express statutory authorization is probably required. 1986 Op Atty Gen, No. 86‑57, p 170.

Housing Authority maintains authority to appoint and prescribe duties of its employees, subject to any applicable regulations governing classification which are promulgated by Budget and Control Board pursuant to State Personnel Act; while Housing Authority commissioners may make recommendations regarding compensation, Budget and Control Board regulations clearly would be controlling subject only to appropriations by General Assembly. 1985 Op Atty Gen, No. 85‑80, p 215.

Personnel Division may disclose salary of State employees to:

1. Comptroller General.

2. State Auditor.

3. Budget and Control Board.

4. Legislators.

5. State Reorganization Commission.

6. Legislative Audit Council. 1978 Op Atty Gen, No 78‑199, p 223.

The ten day limit for appeal to the State Employee Grievance Committee does not begin to run until an employee’s attorney of record is notified of the agency’s final decision. 1978 Op Atty Gen, No 78‑38, p 63.

Homosexuality is a valid ground for refusing State employment. 1975‑76 Op Atty Gen, No 4345, p 172.

Absent individual agency restrictions, an individual may be employed as a permanent state employee and at the same time be employed by a county. 1974‑1975 Op Atty Gen, No 4109, p 185.

**SECTION 8‑11‑250.** Creation, membership and duties of Advisory Council.

 There is hereby created an Advisory Council whose function shall be to meet on a regular basis with the State Personnel Director to review and to comment on proposed policies, procedures and regulations and to make suggestions to the State Personnel Director on these or other matters referred to the Advisory Council. The Advisory Council shall be appointed by the Director of the Department of Administration and shall consist of five persons skilled or trained in personnel management or employee relations who may or may not be public employees. Provided, further, that one of the five members herein shall be the Executive Secretary of the South Carolina State Employees’ Association. To guarantee continuity, appointments shall be made for staggered terms. To accomplish this purpose initial appointments shall be as follows: one member shall be appointed for two years, two members shall be appointed for three years, and two members shall be appointed for four years. All subsequent appointments shall be for four‑year terms. Appointment of a chairman shall be by the Governor for a term coterminous with the Governor’s term. Members of the Advisory Council shall receive no salary but shall receive compensation provided by law for members of boards, committees and commissions.

HISTORY: 1975 (59) 212.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

**SECTION 8‑11‑260.** Exemptions from application of article.

 The provisions of this article apply to all state employees except the following:

 (a) members, officers, and employees of the General Assembly;

 (b) staff of the Governor’s Office;

 (c) officers elected by popular vote and persons appointed to fill vacancies in the offices;

 (d) all judges within the unified court system, all officers and employees of the judicial department, all employees of the Commission on Prosecution Coordination, and all judges, officers, and employees of the Administrative Law Court;

 (e) members of boards, commissions, councils, advisory councils, and committees compensated on a per diem basis;

 (f) all inmate help in all penal and correctional institutions, residents of charitable and mental health and intellectual disability facilities, and students employed in institutions of learning;

 (g) part‑time professional personnel engaged in consultant professional services without administrative duties and personnel employed for less than ninety working days per year;

 (h) other categories of positions as the General Assembly may elect to exempt from time to time;

 (i) athletic coaches and unclassified employees in the athletic departments of post‑secondary educational institutions as defined in Section 59‑107‑10 except the technical education colleges and centers.

 (j) Employees of the Medical University Hospital Authority.

 (k) staff of the Office of the Lieutenant Governor who report directly to the Lieutenant Governor.

HISTORY: 1975 (59) 212; 1985 Act No. 201, Part II, Section 89; 1993 Act No. 48, Section 2, eff May 13, 1993; 1994 Act No. 452, Section 7, eff June 16, 1994; 2000 Act No. 264, Section 2, eff May 1, 2000; 2008 Act No. 353, Section 2, Pt 25A, eff July 1, 2009.

Code Commissioner’s Note

Pursuant to 2011 Act No. 47, Section 14(B), the Code Commissioner substituted “intellectual disability” for “mentally retarded” and “person with intellectual disability” or “persons with intellectual disability” for “mentally retarded”.

Pursuant to the directive in 2004 Act No. 202, Section 3, at the direction of the Code Commissioner, reference to “Administrative Law Judge Division” was changed to “Administrative Law Court”.

Effect of Amendment

The 1993 amendment added to paragraph (d) reference to employees of the Commission on Prosecution Coordination, and added paragraph (i) pertaining to athletics personnel.

The 1994 amendment in paragraph (d) substituted “all employees of the Commission on Prosecution Coordination, and all judges, officers, and employees of the Administrative Law Judge Division” for “and all employees of the Commission on Prosecution Coordination”.

The 2000 amendment added paragraph (j).

The 2008 amendment added subsection (k) relating to the staff of the Lieutenant Governor effective July 1, 2009.

CROSS REFERENCES

FTE positions, Office of Human Resources, state human resources regulations, see S.C. Code of Regulations R. 19‑701.10.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 39, Setting and Altering Compensation.

S.C. Jur. Public Officers and Public Employees Section 55, State Budget and Control Board, Division of Human Resource Management.

**SECTION 8‑11‑270.** Exemptions from classification and compensation plan.

 The classification and compensation plan shall not apply to:

 1. Exempt employees specified in Section 8‑11‑260;

 2. Academic personnel;

 3. Officials or employees whose salaries are fixed by statute;

 4. Such other positions the General Assembly may elect to exempt from time to time;

 5. Such other personnel employed by the State institutions of higher learning and/or medical institutions of education and research as are recommended by the respective governing bodies and approved by the Department of Administration.

 6. Instructional positions for which certification is required at the South Carolina School for the Deaf and Blind.

HISTORY: 1975 (59) 212; 1982 Act No. 405, Section 1.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Exemption of positions under this section from notification of vacancy requirements, see Section 8‑11‑120.

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

Salary structure for instructional personnel at South Carolina School for the Deaf and Blind, see Section 8‑11‑271.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 39, Setting and Altering Compensation.

S.C. Jur. Public Officers and Public Employees Section 55, State Budget and Control Board, Division of Human Resource Management.

Attorney General’s Opinions

A physician’s assistant can carry out administrative tasks and conduct routine tests such as checking blood pressure, weight, etc., for a new patient but cannot perform any task requiring the exercise of independent medical judgment or medical interpretation; moreover, all tasks performed by a physician’s assistant must be individually approved by the State Board of Medical Examiners; a physician’s assistant cannot write patient care orders except when a physician is physically present and dictates to the assistant; under no circumstances can a physician’s assistant prescribe medicine. 1978 Op Atty Gen, No 78‑149, p 182.

A faculty member of a state college or university may appeal to the State Employee Grievance Committee once he has completed six months of satisfactory service, or after an official extension of not to exceed three months and he is appraised satisfactorily. 1978 Op Atty Gen, No 78‑150, p 183.

**SECTION 8‑11‑271.** Salary structure for instructional personnel at South Carolina School for the Deaf and Blind.

 The salary structure for employees at the South Carolina School for the Deaf and Blind affected by item (6) of Section 8‑11‑270 shall be on the basis of comparable daily compensation with the school district with which the School for the Deaf and Blind competes for instructional personnel.

HISTORY: 1982 Act No. 405, Section 2.

**SECTION 8‑11‑280.** Prior actions shall remain in effect.

 All classification, grades, conditions of work, and rules and regulations established prior to July 1, 1975 by the State Personnel Division, as constituted on that date, shall remain in force until repealed or suspended by the Board, acting under the authority of this article.

HISTORY: 1975 (59) 212.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

**SECTION 8‑11‑290.** Legislators shall receive information annually.

 The rules, classifications and compensation schedules shall be forwarded to each member of the General Assembly by July first of each year.

HISTORY: 1975 (59) 212.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

**SECTION 8‑11‑300.** Compensation increases for certain State employees currently receiving maximum compensation under their classifications.

 Any state employee covered under the State Classification and Compensation Plan who receives the maximum compensation under his present classification and who has not received a salary increase for at least twenty‑four months other than base pay increases shall be eligible for an increase of five percent at the end of such twenty‑four months and so long as he remains in such status shall be eligible at the end of every twenty‑four months thereafter to receive an additional increase of five percent. No employee shall receive more than four such increases. Raises will be effective on the employee’s merit review date. The Department of Administration through the State Personnel Division shall administer the provisions of this program.

 Any state employee who has received such increase or increases shall continue to be paid for those amounts awarded on or before June 30, 1986, for the uninterrupted duration of the employee’s state service as covered under the State Classification and Compensation Plan.

 After June 30, 1986, no new or additional compensation increases for state employees receiving maximum compensation under their classification may be awarded to those state employees.

HISTORY: 1978 Act No. 644 Part II Section 18; 1986 Act No. 540, Part II, Section 2, eff June 18, 1986 (became law without the Governor’s signature).

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1986 amendment added the second and third paragraphs.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

ARTICLE 5

Committee on State Employees [Repealed]

**SECTION 8‑11‑410.** Repealed by 1995 Act No. 145, Part II, Section 54B, eff July 1, 1995.

Editor’s Note

Former Section 8‑11‑410 was entitled “Creation, membership and officers of committee” and was derived from 1962 Code Section 1‑49.21; 1973 (58) 338.

**SECTION 8‑11‑420.** Repealed by 1995 Act No. 145, Part II, Section 54B, eff July 1, 1995.

Editor’s Note

Former Section 8‑11‑420 was entitled “Duties of committee” and was derived from 1962 Code Section 1‑49.22; 1973 (58) 338.

CROSS REFERENCES

Provisions of this Chapter not applicable to SC Edisto Development Authority, see Section 13‑21‑30.

Provisions of this Chapter not applicable to SC Midlands Authority, see Section 13‑19‑30.

ARTICLE 7

Annual Leave for State Employees

**SECTION 8‑11‑610.** Manner in which annual leave shall be computed.

 Any permanent full‑time state employee is entitled to annual leave with pay, which is computed as follows:

 For the first ten years of state service, he shall earn one and one‑fourth working days’ leave for each month of full‑time employment a year. After ten years he shall earn a bonus of one and one‑fourth working days’ annual leave for each year of continuous service; however, the combined regular and bonus earnings shall not exceed thirty days in any one year. No employee is required to use all of his annual leave in any one year. Any unused annual leave may be accumulated, not to exceed forty‑five days. Any employee of a department which allowed an accumulation in excess of forty‑five days, who, as of June 2, 1972, had accumulated annual leave in excess of forty‑five days may carry over and retain the excess leave which is the maximum amount the employee may carry over into future years. If the employee subsequently reduces the amount of the leave carried over, the reduced amount, if in excess of forty‑five days, is the employee’s maximum carry‑over into future years. If the employee further reduces the amount of the leave carried over to forty‑five days or less, forty‑five days is the maximum amount of unused annual leave the employee may accumulate. It is at the discretion of the department heads to determine the maximum number of consecutive days any employee may have in any one period of leave. The total number of days of annual leave used in any one calendar year may not exceed thirty days.

 Provided, further, that instructional personnel at the South Carolina School for the Deaf and Blind whose positions are unclassified shall be entitled to receive annual leave in the same manner as state employees and to utilize annual leave only as specified in the annual contract. The annual contract shall enable such instructional personnel to utilize up to but no more than nine days annual leave per year over and above scheduled vacations, but no more than one day per month of annual leave without the supervisor’s permission except in cases of illness or maternity leave when all available sick leave has been taken. Such employees shall be entitled to accumulate up to the maximum accumulation allowed state employees. These provisions shall not obligate the school to provide monetary compensation for unutilized days accumulated beyond the maximum allowed state employees.

HISTORY: 1962 Code Section 1‑91.9; 1962 (52) 1691; 1972 (57) 2525; 1974 (58) 2172; 1982 Act No. 405, Section 3; 1985 Act No. 201, Part II, Section 78.

Editor’s Note

1991 Act No. 171, Part II, Section 68, effective June 12, 1991, provides as follows:

“Notwithstanding the provisions of Section 8‑11‑610 of the 1976 Code, a permanent full‑time state employee who served on active duty as a result of Operation Desert Storm may use up to forty‑five days of accumulated annual leave in a calendar year if the leave is used before December 31, 1991.”

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

Attorney General’s Opinions

Administrative law judges, like other judges, are public officials and do not accrue either annual or sick leave. S.C. Op.Atty.Gen. (June 17, 2015) 2015 WL 4042028.

Teaching personnel and officials of academic rank in State supported institutions of higher learning may count the time as an instructor as creditable service in determining his or her bonus annual leave earning rate in a later assignment in which the employee is eligible for annual leave under the Act [apparently, 1974 Act No. 997, appearing as Article 7 of Chapter 11 of Title 8]; a State legislator may not count the time served in the Legislature as creditable service in determining his or her annual leave earning rate in a later assignment in which the employee is eligible for annual leave under the Act [apparently, 1974 Act No. 997, appearing as Article 7 of Chapter 11 of Title 8]. 1974‑75 Op Atty Gen, No 4185, p 240.

**SECTION 8‑11‑620.** Leave and lump‑sum payment permitted upon termination of employment, death or retirement of employee; retired police officers hired by state agency.

 (A)(1) Upon termination from state employment, an employee may take both annual leave and a lump‑sum payment for unused leave, but this combination may not exceed forty‑five days in a calendar year except as provided in Section 8‑11‑610. If an employee dies, the employee’s legal representative is entitled to a lump‑sum payment for the employee’s unused leave, not to exceed forty‑five working days, except as provided in Section 8‑11‑610. An active member of the South Carolina Retirement System or South Carolina Police Officers Retirement System who is terminated within one year of retirement eligibility shall have five business days after the date of termination to purchase any service credit that the member is otherwise eligible to purchase as provided in Section 9‑1‑1140 or Section 9‑11‑50 in order to attain retirement eligibility.

 (2) Upon retirement from state employment, if the member does not elect to participate in the Teacher and Employee Retention Incentive Program, a lump‑ sum must be paid for unused leave, not to exceed forty‑five days, unless a higher maximum is approved pursuant to Section 8‑11‑610, and without regard to the earned leave taken during the calendar year in which the employee retires.

 (3) Upon retirement from state employment, if the employee participates in the Teacher and Employee Retention Incentive Program, the employee shall not receive payment for unused annual leave until the employee terminates from state employment and ends participation in the Teacher and Employee Retention Incentive Program. Upon termination of state employment and participation in the Teacher and Employee Retention Incentive Program, a lump‑sum must be paid for unused leave, not to exceed forty‑five days, unless a higher maximum is approved pursuant to Section 8‑11‑610, and without regard to the earned leave taken during the calendar year in which the employee retires.

 (4) No lump‑sum for unused leave of a state employee must be paid following the termination for any reason from state employment of that employee if, while employed, that employee received a service retirement benefit on account of previous service under retirement systems established in Chapters 1 and 11 of Title 9.

 (B) A retired member of the South Carolina Police Officers Retirement System who is hired by the State, a state agency, institution of higher learning, board, commission, or school that is a governmental unit of this State is not eligible for a lump‑sum payment for unused leave provided pursuant to subsection (A) of this section.

HISTORY: 1962 Code Section 1‑91.10; 1962 (52) 1691; 1972 (57) 2525; 1974 (58) 2172; 1976 Act No. 621 Section 1; 2002 Act No. 356, Section 10, eff July 1, 2002; 2005 Act No. 153, Pt II, Section 1.A, eff July 1, 2005; 2016 Act No. 202 (S.381), Section 1, eff June 3, 2016.

Editor’s Note

2005 Act No. 153, Section 1.B, provides as follows:

“The provisions of Section 8‑11‑620(A) of the 1976 Code, as amended by this act, apply for employees beginning participation in the TERI program after June 30, 2005, and retirees hired by the State after June 30, 2005.”

Effect of Amendment

The 2002 amendment designated subsection (A) and added subsection (B).

The 2005 amendment, in subsection (A), designated the first and second sentences as paragraphs (1) and (2), making nonsubstantive changes in both and in paragraph (2) substituting “if the member does not elect to participate in the Teacher and Employee Retention Incentive Program” for “or upon the death of an employee”; and added paragraphs (3) and (4) relating to participation in the Teacher and Employee Retention Incentive Program upon retirement and a limitation on payment of lump‑sum unused leave.

2016 Act No. 202, Section 1, in (A)(1), added the last sentence, relating to the purchase of service credit.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

Attorney General’s Opinions

Administrative law judges have no reason to track either annual or sick leave, nor can they receive payment for unused annual leave under this section. S.C. Op.Atty.Gen. (June 17, 2015) 2015 WL 4042028.

Budget and Control Board is authorized to implement formula for prorating state employees accrued leave time. Leave time may be used by state employees to supplement Workers Compensation temporary total disability payments to restore injured employee to compensation leave that he or she enjoys when employee is able to work full‑time. 1984 Op Atty Gen, No. 84‑133, p. 318.

The county treasurer is not a “permanent full‑time State employee” and thus the provisions of Section 8‑11‑620 relating to payment of annual leave are not applicable to the county treasurer. 1979 Op Atty Gen, No 79‑77, p 102.

**SECTION 8‑11‑630.** Employment of additional employees to replace those on leave and those terminated.

 No department head shall hire additional employees to replace employees on annual leave, but vacancies may be filled immediately for persons whose services have been terminated.

HISTORY: 1962 Code Section 1‑91.11; 1962 (52) 1691; 1972 (57) 2525; 1974 (58) 2172.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

LIBRARY REFERENCES

67 C.J.S., Officers Sections 74‑79.

**SECTION 8‑11‑640.** Credit for prior State service; transfer from one agency to another.

 All employees of the State as of June 2, 1972, shall receive full credit for employment prior to such date. Following the date of June 2, 1972, all employees who are rehired following a break in service shall be given credit for prior state service for purposes of computing bonus earnings. In the event an employee transfers from one state agency to another, his annual leave balance shall also be transferred.

 Any permanent employee of a state agency or department must be given full state service credit for prior service as a certified employee of a school district of this State for purposes of computing bonus earnings and no credit under this paragraph may be given for any out‑of‑state teaching service or other service with an out‑of‑state school district.

HISTORY: 1962 Code Section 1‑91.12; 1962 (52) 1691; 1972 (57) 2525; 1974 (58) 2172; 1976 Act No. 621 Section 2; 1994 Act No. 523, Section 1, eff September 23, 1994; 1996 Act No. 458, Part II, Section 98, eff June 19, 1996.

Effect of Amendment

The 1994 amendment added the second paragraph.

The 1996 amendment deleted “to a maximum of ten years” in the first paragraph.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

Transfer of accumulated sick and annual leave on transfer of employees within legislative department agencies, see Section 8‑11‑45.

**SECTION 8‑11‑650.** Workweek upon which leave shall be based.

 Leave, as authorized by this article, shall be based upon a five‑day workweek except where services are maintained seven days a week; provided, however, that no agency shall schedule a workweek of less than thirty‑seven and one‑half hours. The Department of Administration, through the State Personnel Division, may establish, by appropriate regulations, procedures for the equitable calculation of leave for those employees who work a different number of days, including permanent part‑time employees.

HISTORY: 1962 Code Section 1‑91.13; 1972 (57) 2525; 1974 (58) 2172.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

**SECTION 8‑11‑660.** Situation in which leave shall not be credited.

 Employees shall not be credited with leave earnings for any month in which they are not in pay status for one half or more of the workdays of the month.

HISTORY: 1962 Code Section 1‑91.14; 1972 (57) 2525; 1974 (58) 2172.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

**SECTION 8‑11‑670.** Additional leave may be granted in case of emergency or extreme hardship.

 Notwithstanding any other provisions of law, including the provisions of this article, the department or agency head may allow an employee, under emergency or extreme hardship conditions, who has used all accumulated sick leave and thirty days of annual leave to use under such emergency or hardship conditions any remaining annual leave which he has accumulated, subject to review by the Department of Administration upon appeal by the employee.

HISTORY: 1962 Code Section 1‑91.15; 1974 (58) 2172.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

**SECTION 8‑11‑680.** Application of article.

 The provisions of this article shall apply to all State agencies, departments and institutions and shall be administered by each such agency, department and institution pursuant to regulations adopted by the Department of Administration. The article, however, shall not apply to teaching personnel and officials of academic rank at State‑supported institutions of higher learning. The personnel records of all agencies, departments and institutions coming under the provisions of this article shall be subject to audit by the State Personnel Division.

HISTORY: 1962 Code Section 1‑91.8; 1972 (57) 2525; 1974 (58) 2172.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

CROSS REFERENCES

Provisions of this Chapter not applicable to SC Edisto Development Authority, see Section 13‑21‑30.

Provisions of this Chapter not applicable to SC Midlands Authority, see Section 13‑19‑30.

State human resources regulations, see S.C. Code of Regulations R. 19‑700 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

ARTICLE 9

State Employee Leave‑Transfer Program

**SECTION 8‑11‑700.** Definitions.

 As used in this article:

 (1) “Employing agency” means the agency in which the leave recipient is employed.

 (2) “Leave donor” means an employee of an employing agency whose voluntary written request for transfer of annual or sick leave to the pool leave account of his employing agency is granted.

 (3) “Leave recipient” means an employee of an employing agency who has a personal emergency and is selected to receive annual or sick leave from the pool leave account of his employing agency.

 (4) “Personal emergency” means a catastrophic and debilitating medical situations, severely complicated disabilities, severe accident cases, family medical emergencies or other hardship situations that are likely to require an employee’s absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

 (5) “Division” means the Human Resource Management Division of the Department of Administration.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988; 1995 Act No. 145, Part II, Section 64A, eff June 29, 1995.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1995 amendment revised paragraph (4).

CROSS REFERENCES

Provisions of this Chapter not applicable to SC Edisto Development Authority, see Section 13‑21‑30.

Provisions of this Chapter not applicable to SC Midlands Authority, see Section 13‑19‑30.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

**SECTION 8‑11‑710.** Request for leave from pool leave account.

 (A) Employees of a state agency may request leave from the pool leave account established in this article of his agency for a personal emergency in the manner and under the conditions authorized by this article.

 (B) This leave request must be submitted to the employing agency and must be accompanied by the following information concerning the employee:

 (1) the name, employing agency, position title, and classification of the employee; and

 (2) a brief description of the nature, severity, and anticipated duration of the medical, family, or other hardship situation affecting the employee.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988.

CROSS REFERENCES

Selection of leave recipients, see Section 8‑11‑720.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

**SECTION 8‑11‑720.** Selection of leave recipients.

 In conformity with guidelines established by the Department of Administration, the director of the employing agency may select leave recipients within the agency for participation in the leave‑transfer program from among the potential leave recipients of the agency requesting leave under Section 8‑11‑710. The selections of the director of the employing agency are final, and there is no administrative or judicial appeal of the selections. Unless the personal emergency involves a medical condition affecting the leave recipient, the employing agency may consider the likely impact on morale and efficiency within the agency in considering a leave recipient’s request to use transferred leave.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988; 1990 Act No. 339, Section 1, eff February 27, 1990; 1995 Act No. 145, Part II, Section 64B, eff June 29, 1995.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1990 amendment added references to “designee” of the Budget and Control Board.

The 1995 amendment rewrote the first two sentences which read: “In conformity with guidelines established by the division and following receipt of additional information it may require, the employing agency, subject to approval by the Budget and Control Board or its designee, may select leave recipients within the agency for participation in the leave‑transfer program from among the potential leave recipients of the agency requesting leave under Section 8‑11‑710. The selections of the employing agency after approval by the Budget and Control Board or its designee, are final, and there is no administrative or judicial appeal of the selections.”

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

**SECTION 8‑11‑730.** Transfer from annual or sick leave account to pool account.

 (A) An employee of an employing agency may request voluntarily, in writing, that a specified number of hours of his accrued annual or sick leave or both be transferred from his annual or sick leave account to a pool account the agency establishes to distribute leave to leave recipients employed by the agency pursuant to this article, except that an employee with less than fifteen days in his sick leave account may not transfer any sick leave to the pool account, and an employee with more than fifteen days in his sick leave account may transfer sick leave to the pool account if he retains a minimum of fifteen days in his own sick leave account. An employee may donate no more than one‑half of the annual or sick leave he earns within a calendar year to the appropriate pool leave account for that calendar year. Once leave of an employee has been transferred to the pool account, it may not be restored or returned to the leave donor.

 (B) Under guidelines established by the Department of Administration, the employing agency may transfer all or any portion of the annual leave in the pool account to the annual leave account of the leave recipient, and all or any portion of the sick leave in the pool account to the sick leave account of the leave recipient.

 (C) Annual or sick leave transferred under this section may be substituted retroactively for periods of leave without pay or used to liquidate an indebtedness for advanced annual or sick leave granted.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988; 1990 Act No. 339, Section 2, eff February 27, 1990; 1995 Act No. 145, Part II, Section 64C, eff June 29, 1995.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1990 amendment, in subsection (A), inserted “An employee may donate no more than one‑half of the annual or sick leave he earns within a calendar year to the appropriate pool leave account for that calendar year.” and made grammatical changes.

The 1995 amendment, in subsection (B), substituted “guidelines” for “procedures” and substituted “State Budget and Control Board” for “division”.

CROSS REFERENCES

Use of annual or sick leave from the pool account, see Section 8‑11‑740.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

**SECTION 8‑11‑740.** Use of leave from pool account; unused portion of pool account upon termination of leave recipient’s employment.

 (A) Upon approval by the director of the employing agency, a leave recipient may use annual or sick leave from the pool account established under Section 8‑11‑730 in the same manner and for the same purposes as if he had accrued the leave in the manner provided by law. Leave that accrues to the account of the leave recipient must be used before any transferred leave from the pool account.

 (B) Transferred annual or sick leave from the pool account remaining to the credit of a leave recipient when the leave recipient’s employment terminates must not be transferred to another employee, included in a lump‑sum payment for accrued leave, or included in the recipient’s total service for retirement computation purposes.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988; 1995 Act No. 145, Part II, Section 64D, eff June 29, 1995.

Effect of Amendment

The 1995 amendment substituted subsection (A), for one which read: “Upon approval of his employer, a leave recipient may use annual or sick leave from the pool account established under Section 8‑11‑730 in the same manner and for the same purposes as if he had accrued the leave in the manner provided by law. Leave that accrues to the account of the leave recipient must be used before any transferred leave from the pool account.”

**SECTION 8‑11‑750.** Termination of personal emergency.

 (A) The personal emergency affecting a leave recipient terminates when the employing agency determines that the personal emergency no longer exists or the leave recipient’s employment by the employing agency terminates.

 (B) The employing agency shall monitor continuously the status of the personal emergency affecting the leave recipient and establish procedures to ensure that the leave recipient is not permitted to receive or use transferred annual or sick leave from the pool account after the personal emergency ceases to exist.

 (C) When the personal emergency affecting a leave recipient terminates, the employing agency may not grant any further requests for transfer of annual or sick leave from the pool account to the leave accounts of the leave recipient.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988.

**SECTION 8‑11‑760.** Leave remaining after termination of personal emergency to be restored to pool account.

 Under guidelines established by the Department of Administration, any transferred annual or sick leave remaining to the credit of a leave recipient when the personal emergency affecting the leave recipient terminates must be restored to the pool account.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988; 1995 Act No. 145, Part II, Section 64E, eff June 29, 1995.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 1995 amendment substituted this section for one which read: “Under procedures established by the division, any transferred annual or sick leave remaining to the credit of a leave recipient when the personal emergency affecting the leave recipient terminates must be restored to the pool account.”

**SECTION 8‑11‑770.** Employing agencies to maintain records and report pertinent information to division.

 The division shall require employing agencies to maintain records and report pertinent information to the division concerning the administration of the leave‑transfer program for the purpose of evaluating the desirability, feasibility, and cost of the transfer program.

HISTORY: 1988 Act No. 524, Section 2, eff May 18, 1988.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 37, Leave.

ARTICLE 11

State Employee Pay Plan

**SECTION 8‑11‑910.** Legislative intent.

 It is the intent of the General Assembly that state employees receive any pay increase appropriated in a consistent and uniform manner.

HISTORY: 1990 Act No. 612, Part II, Section 13, eff June 13, 1990 (became law without the Governor’s signature).

CROSS REFERENCES

Provisions of this Chapter not applicable to SC Midlands Authority, see Section 13‑19‑30.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 39, Setting and Altering Compensation.

**SECTION 8‑11‑920.** Definitions.

 For purposes of this article:

 (1) “Base pay increase” means an increase applicable to all permanent state employees who qualify.

 (2) “Board” means the Department of Administration.

 (3) “Performance increase” means a pay increase applicable to permanent state employees based upon appraisal ratings of.

 (a) below performance requirements;

 (b) meets performance requirements;

 (c) exceeds performance requirements; and

 (d) substantially exceeds performance requirements.

 (4) “Bonus” pay means a one‑time payment for exceptional service and may be paid to employees who have performance ratings of “exceeds” or “substantially exceeds”. Employees who have performance ratings of ‘meets performance requirements’ may be given the bonus pay upon approval of a special request by the agency head. This special request may not be used for agency‑wide distribution of bonus pay. This payment is not a part of the employee’s base salary and is not earnable compensation for purposes of employer or employee contributions to the respective retirement systems.

HISTORY: 1990 Act No. 612, Part II, Section 13, eff June 13, 1990 (became law without the Governor’s signature).

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 8‑11‑930.** Competitiveness report; determination of base pay increases; adjustment of minimum and maximum in salary grades.

 The board and the General Assembly shall give first consideration to keeping the pay program for state employees competitive with the prevailing salaries, wages, and benefits in the private sector. To accomplish this, the board’s Division of Human Resource Management shall submit an analysis of prevailing state and private sector salaries, wages, and benefits to the board, the Ways and Means Committee of the House of Representatives, and the Senate Finance Committee. This report must be completed every other year with the first report submitted no later than July 31, 1991. In determining the percentage of increase to be applied as a base pay increase, the board and the General Assembly and its committees shall consider the relative market value of each job classification. The minimum and maximum salary of each grade may be adjusted by law for the applicable year.

HISTORY: 1990 Act No. 612, Part II, Section 13, eff June 13, 1990 (became law without the Governor’s signature).

**SECTION 8‑11‑940.** Performance increases.

 (A) Performance increases must be based upon performance appraisals containing the following categories:

 (1) below performance requirements ‑ no increase;

 (2) meets performance requirements ‑ two percent increase;

 (3) exceeds performance requirements ‑ three percent increase;

 (4) substantially exceeds performance requirements ‑ four percent increase.

 The dollar amount of each performance increase must be added to the employee’s base pay until the pay level of the employee has reached the maximum of his grade or executive compensation level. After the employee has reached maximum pay in his grade or executive compensation level, he may continue to receive performance pay but it must not be added to the base pay.

 (B) The estimated cost of these performance increases, based upon predetermined norms, is two and one‑half percent of the payroll of each agency. If the General Assembly provides more or less than two and one‑half percent for performance increases, the percentage of increase of each category of performance must be adjusted accordingly.

HISTORY: 1990 Act No. 612, Part II, Section 13, eff June 13, 1990 (became law without the Governor’s signature).

CROSS REFERENCES

Effective dates of salary changes, see S.C. Code of Regulations R. 19‑705.08.

**SECTION 8‑11‑945.** Increases applicable to certain health care providers.

 For the purposes of this article, local health care providers of the Department of Disabilities and Special Needs, Division of Mental Retardation, Department of Alcohol and Other Drug Abuse Services, and the South Carolina Division on Aging are eligible for the base pay increase and performance pay increase as prescribed.

HISTORY: 1990 Act No. 612, Part II, Section 13, eff June 13, 1990 (became law without the Governor’s signature); 1993 Act No 181, Section 69, eff July 1, 1993.

Code Commissioner’s Note

2011 Act No. 47, Section 14(B), provided for the substitution of “intellectual disability” for “mental retardation” in the 1976 Code of Laws. At the Code Commissioner’s discretion, the substitution was not made for the formal reference to the “Department of Disabilities and Special Needs, Division of Mental Retardation” in this section.

Effect of Amendment

The 1993 amendment revised this section by substituting “Department of Disabilities and Special Needs, Division of Mental Retardation” for “State Department of Mental Retardation”, “Department of Alcohol and Other Drug Abuse Services” for “South Carolina Commission on Alcohol and Drug Abuse”, and “Division on Aging” for “Commission on Aging”.

**SECTION 8‑11‑950.** Bonus payments.

 Funding for bonus payments when provided are given to reward exceptional service. Bonus payments must be given in accord with rules established by the board. The board and the General Assembly shall state the amount provided for bonus payment in terms of a percentage of agency payrolls and in dollar figures.

HISTORY: 1990 Act No. 612, Part II, Section 13, eff June 13, 1990 (became law without the Governor’s signature).

**SECTION 8‑11‑960.** Increases totalling more than agency maximum; audits.

 After the General Assembly appropriates amounts for base pay increases, performance pay, and bonus payments, the board shall determine the maximum amount available to each agency and the rules which apply if the merit increases proposed by the agency do not fit the norm.

 The board’s Division of Human Resource Management shall perform sample or detailed audits, or both, as necessary, to insure agency compliance with the General Assembly’s intent for a fair and equitable distribution of performance pay and bonus pay. The Director of Human Resource Management shall submit to the board and the General Assembly an analysis of the audits, together with the analysis of prevailing state and private sector salaries, wages, and benefits required pursuant to Section 8‑11‑930.

HISTORY: 1990 Act No. 612, Part II, Section 13, eff June 13, 1990 (became law without the Governor’s signature).

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 39, Setting and Altering Compensation.