CHAPTER 15

Local or Local and State Officers and Employees Generally

**SECTION 8‑15‑10.** Determination of compensation of officers and employees.

 Except as otherwise provided or as prohibited by the Constitution of this State, the compensation of all officers and employees of the State or any political subdivision, department or agency thereof shall be as from time to time provided by the General Assembly or the particular political subdivision, department or agency concerned, as the case may be.

HISTORY: 1962 Code Section 1‑50; 1952 Code Section 1‑50; 1951 (47) 506.

CROSS REFERENCES

Compensation and expenses of the Patient Qualification Review Advisory Board of the controlled substances theraputic research program, see Section 44‑53‑640.

Elimination of provisions for compensation from proposed codes, see Section 2‑13‑160.

Interchange of government employees between and among federal, state and local governments, see Chapter 12 of Title 8.

LIBRARY REFERENCES

67 C.J.S., Officers Sections 219‑242.

RESEARCH REFERENCES

Encyclopedias

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

Attorney General’s Opinions

A clerk of court cannot use the bail bondsmen fees to pay his employees a “small moral[e] improvement incentive”; a clerk of court cannot pay an employee compensation which is greater than the amount that the employee agreed to work for under contract or that is greater than the employee’s salary. S.C. Op.Atty.Gen. (June 5, 2017) 2017 WL 2601033.

Discussion of the validity of employee and supervisor incentives provided by the Horry County Budget Savings Suggestion Program. S.C. Op.Atty.Gen. (August 1, 2016) 2016 WL 4222141.

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.

Opinion dated June 17, 1976 concluding that Broad Creek Public Service District Commission was not authorized to compensate its members, was superseded by subsequent adoption of Section 6‑11‑91 which would permit governing body of special purpose or public service district to fix or change compensation or benefits. Attorney General’s office has previously opined that Section 6‑11‑91 would be applicable to special purpose or public service districts created by General Assembly, thus its provisions may be utilized by Broad Creek Public Service District. 1990 Op Atty Gen, No. 90‑42.

County officers may be compensated on salary basis. Legislature may place county officers upon fixed salary basis rather than fee basis to be effective at whatever time it chooses. Op Atty Gen, January 30, 1963.

**SECTION 8‑15‑30.** Duties of officers receiving statutory publications; manner in which such publications shall be delivered.

 Each State and county officer entitled to receive a set of the Code, Code Supplement, Acts, Journals or other such publication shall file with the director of the Legislative Council a receipt acknowledging receipt of it before such publication shall be delivered to him. Each officer receiving such publications shall keep them in his office where they may be used by the public, but this provision shall in nowise affect any of the duties now imposed by law on any officer. Provided, that delivery may be made in the discretion of the director of the Legislative Council by furnishing a direct mailing list to the publisher of such publications or by delivery to the clerks of court in the several counties with a list explaining to whom the publications should be delivered, and requiring the clerks of court, in such event, to give a receipt for the entire delivery.

HISTORY: 1962 Code Section 1‑60; 1952 Code Section 1‑60; 1942 Code Section 2118‑2; 1932 (37) 1185; 1940 (41) 1940; 1972 (57) 2809.

CROSS REFERENCES

Enforcement of this section, see Section 8‑15‑40.

**SECTION 8‑15‑40.** Officer’s delivery of state‑owned Code and supplements to successor in office; liability on bond for value of retained Code; Code Commissioner to determine value.

 An officer receiving a set of the Code and its supplements, upon leaving office, shall deliver to his successor in office the codes and supplements which he received as an officer. An officer leaving office without turning over to his successor the sets of the codes and supplements delivered to him by virtue of his office is liable for them on his official bond. The Code Commissioner shall determine the value of the set. The codes and supplements after distribution to officers are and remain the property of the State and must be returned to the State Librarian by a person who is not authorized by law to retain them. The Attorney General shall enforce the provisions of this section and Section 8‑15‑30.

HISTORY: 1962 Code Section 1‑61; 1952 Code Section 1‑61; 1942 Code Section 2118‑2; 1932 (37) 1185; 1940 (41) 1940; 2009 Act No. 10, Section 3, eff May 6, 2009.

Effect of Amendment

The 2009 amendment rewrote the third sentence to add the requirement that the Code Commissioner determine the value of the set and delete the provision fixing the value at twenty‑five dollars, and made nonsubstantive changes throughout.

**SECTION 8‑15‑50.** Public employee taking statement in investigation shall give copy to person making statement.

 Whenever any person employed by the State, or any county, city or municipality thereof, or any part of any such governing body, shall take a written statement in any investigation of any kind or nature from any person, the person receiving or taking the written statement shall give to the person making the statement a copy thereof and shall obtain from the person making the statement a signed receipt for the copy so delivered.

HISTORY: 1962 Code Section 1‑65; 1952 (47) 1977.

CROSS REFERENCES

Admissibility of such statement in evidence, see Section 19‑1‑90.

Examination of witness in criminal proceeding concerning statement referred to in this section, see Section 19‑1‑80.

LAW REVIEW AND JOURNAL COMMENTARIES

Annual Survey of South Carolina Law: Evidence: statutory limitation by failing to deliver written statement. 28 S.C. L. Rev. 338.

NOTES OF DECISIONS

In general 1

1. In general

Cited in State v Britt (1959) 235 SC 395, 111 SE2d 669. State v Steadman (1972) 257 SC 528, 186 SE2d 712.

Applied in State v Trull (1958) 232 SC 250, 101 SE2d 648. State v Britt (1960) 237 SC 293, 117 SE2d 379, cert den 365 US 886, 6 L Ed 2d 197, 81 S Ct 1040. State v Outen (1961) 237 SC 514, 118 SE2d 175, cert den 366 US 977, 6 L Ed 2d 1266, 81 S Ct 1948. State v Gamble (1966) 247 SC 214, 146 SE2d 709, later app 249 SC 605, 155 SE2d 916, cert den 390 US 927, 19 L Ed 2d 988, 88 S Ct 862.

South Carolina Supreme Court interpretation of Code 1962 Sections 1‑65, 26‑7.1 and 26‑7.2 [Code 1976 Sections 8‑15‑50, 19‑1‑80, and 19‑1‑90] as permitting the prosecution to object to use of a statement, on the basis that the police did not comply with the requirement of delivering a copy thereof to the person making the statement and obtaining a signed receipt, to cross‑examine witnesses as to inconsistencies, is of doubtful constitutionality. Motes v. Leeke (D.C.S.C. 1976) 423 F.Supp. 919.

An oral statement does not invoke the requirement of Sections 8‑15‑50, 19‑1‑80, and 19‑1‑90 that a copy be given to the witness. Moreover, a waiver of rights form is not a “written statement” under these statutes. Where one accused of murder signed a waiver of rights form and then gave an oral statement, the trial judge did not err in admitting into evidence the signed waiver of rights form merely because the defendant had not been given a copy. State v. Smith (S.C. 1985) 286 S.C. 406, 334 S.E.2d 277, certiorari denied 106 S.Ct. 1239, 475 U.S. 1031, 89 L.Ed.2d 347, rehearing denied 106 S.Ct. 1665, 475 U.S. 1132, 90 L.Ed.2d 207, denial of habeas corpus affirmed 137 F.3d 808.

Although the defendant had not been provided with copies of two confessions at the time he made them, which failure was due to a malfunction of the copy machine at the police station, the trial court did not err in admitting these statements into evidence where the defendant had been given a copy three weeks later, prior to the preliminary hearing and approximately four months before trial. State v. Butler (S.C. 1982) 277 S.C. 452, 290 S.E.2d 1, certiorari denied 103 S.Ct. 242, 459 U.S. 932, 74 L.Ed.2d 191, habeas corpus granted 302 S.C. 466, 397 S.E.2d 87, certiorari denied 111 S.Ct. 442, 498 U.S. 972, 112 L.Ed.2d 425. Criminal Law 413.22

Trial court committed no error in refusing to allow defense counsel to impeach witness in murder prosecution by reference to written statement witness had given police on ground that witness had not signed receipt acknowledging having received copy of such statement. State v. Bolton (S.C. 1976) 266 S.C. 444, 223 S.E.2d 863. Witnesses 387; Witnesses 392(1)

Where written statement was taken by an officer and a copy thereof was not given to the witness prior to testimony at trial, the statements would not be admitted in evidence or permitted in cross‑examination, due to code sections making it improper to admit into evidence, in any criminal proceeding, a written statement taken from a witness by a person employed by the state, unless an exact copy of the statement is given to the witness and a signed receipt taken therefor. State v. Motes (S.C. 1975) 264 S.C. 317, 215 S.E.2d 190.

One of the purposes of this section [Code 1962 Section 1‑65] is to permit a witness or a defendant to refresh his memory relative to statements made prior to the trial. State v. Mikell (S.C. 1971) 257 S.C. 315, 185 S.E.2d 814.

Section not applicable to tape recordings. The legislature has not made this section [Code 1962 Section 1‑65] applicable to tape recordings. State v. Mikell (S.C. 1971) 257 S.C. 315, 185 S.E.2d 814.

Where tapes were played to and for the defendants prior to trial, the spirit and purpose of this section [Code 1962 Section 1‑65] had not been circumvented. State v. Mikell (S.C. 1971) 257 S.C. 315, 185 S.E.2d 814.

Question of compliance with section is for jury. Where defendant testified that he received no copy of his confessions at the time of signing them, but the confessions themselves and other evidence tended to establish that he had, the question of compliance with this section [Code 1962 Section 1‑65] became an issue of fact for the jury to decide. State v. Bullock (S.C. 1959) 235 S.C. 356, 111 S.E.2d 657, certiorari granted 80 S.Ct. 959, 362 U.S. 968, 4 L.Ed.2d 900, certiorari dismissed 81 S.Ct. 686, 365 U.S. 292, 5 L.Ed.2d 570.

Quoted in State v. Jones (S.C. 1956) 228 S.C. 484, 91 S.E.2d 1.

The duty imposed on investigating officers by this section [Code 1962 Section 1‑65] is with respect to statements which they “shall take,” necessarily meaning after the passage of this section [Code 1962 Section 1‑65]. State v. Anderson (S.C. 1954) 224 S.C. 419, 79 S.E.2d 455.

**SECTION 8‑15‑60.** Powers of governmental units to provide in‑service training for employees.

 It is hereby declared to be the public policy that the State and its subdivisions should foster and encourage the training of officials and employees after entry into public service so that they may improve their knowledge and efficiency in the operations of State and local government and thus improve public service. To that end it is deemed advisable that subdivisions of the State be granted the authority to accomplish that purpose.

 Departments, bureaus and agencies of the State government and counties, municipalities, school districts and other governmental units may:

 (1) Appropriate and expend public funds;

 (2) Use property, equipment, materials, and facilities owned or controlled by them;

 (3) Provide by statute, local law or ordinance, rules and regulations for the establishment and conduct of training programs including the methods of selecting officials and employees eligible to participate in such training programs;

 (4) Contract with colleges, universities, other educational institutions, organizations, and individuals to conduct training courses and enroll officials and employees in existing courses which will improve their skill and efficiency;

 (5) Provide that officials or employees taking such courses or training exceeding ninety days in length shall be required to give assurance to the employing unit of government that he will upon completion of the training period remain in the service of such unit, if his services are otherwise satisfactory, for not less than one year or refund the amount of salary, wages, and expenses that such unit has paid to him or for his benefit during his training period;

 (6) Exchange with the State; other subdivisions, states or institutions, in or out of State, approved by the subdivision governing body; or the United States Government, officers or employees for training purposes;

 (7) Arrange by contract with other subdivisions, the State or the United States for the training of officials and employees for compensation to be agreed upon among the party governmental units;

 (8) Provide that officials and employees attending training courses or on exchange for the purpose of training may remain the employees of the governmental unit employing them and shall continue to be entitled to all benefits and rights as though continuously employed by the employing unit of government at the original station or place;

 (9) Pay reasonable traveling expenses and subsistence of such officials and employees during the time they are receiving training;

 (10) Provide that the money appropriated in the budget may be used for the payment of salaries or wages and supplies and services necessary for such training program, including salaries of instructors and other personnel who may be employed for that purpose;

 (11) Do all other things necessary or appropriate and incidental to the administration of this section.

HISTORY: 1962 Code Section 1‑66.1; 1967 (55) 229.

CROSS REFERENCES

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

**SECTION 8‑15‑65.** Annual salary supplements.

 (A) The General Assembly shall appropriate annually salary supplements for the following county officers:

 (1) clerks of court;

 (2) probate judges;

 (3) sheriffs;

 (4) registers of deeds;

 (5) auditors;

 (6) treasurers.

 (B) The amounts appropriated for salary supplements pursuant to subsection (A) must include both salary and related employer contributions and are in addition to amounts provided as compensation for these officials by counties. To the extent that compensation for these officers is reduced by a county or there is any other reduction of expenditures in the operations of their offices, a corresponding reduction must be made in the distribution otherwise due the county pursuant to Chapter 27 of Title 6, the State Aid to Subdivisions Act.

 (C) Except as provided in subsection (B), the salary supplement must be uniform with respect to a particular county officer but may vary between the different category of officers.

 (D) Amounts appropriated for the officers listed in subsection (A)(1), (2), (3), and (4) must be paid to county treasurers in a lump sum at the beginning of the fiscal year and paid to these officers over a twelve‑month period in the same manner that salaries are paid county employees. Amounts appropriated pursuant to this section for the officers listed in subsection (A)(5) and (6) must be administered by the Office of the Comptroller General and paid in accordance with the schedule and method of payment provided for state employees.

HISTORY: 1996 Act No. 458, Part II, Section 17A, eff July 1, 1996; 1997 Act No. 34, Section 1, eff January 1, 1998.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

**SECTION 8‑15‑70.** Non‑discriminatory procurement of construction‑related services by the State; exemptions.

 (A) It is the intent of the General Assembly that the provisions of this section provide for more economical, nondiscriminatory, neutral, and efficient procurement of construction‑related services by this State and political subdivisions of this State as market participants. The General Assembly finds that providing for fair and open competition best effectuates this intent.

 (B) An agent or employee of this State, a board or governing body of this State, or of any institution of state government, or any agent, employee, or board or governing body of any political subdivision of this State awarding a contract for the construction, repair, remodeling, or demolition of a public building shall not in any bid specifications, project agreements, or other controlling documents:

 (1) require or prohibit a bidder, offeror, contractor, or subcontractor from entering into or adhering to an agreement with one or more labor organizations in regard to that project or a related construction project; and

 (2) otherwise discriminate against a bidder, offeror, contractor, or subcontractor for becoming, remaining, refusing to become or remain a signatory to, or for adhering or refusing to adhere to an agreement with one or more labor organizations in regard to that project or a related construction project.

 (C) An agent or employee of this State, a board or governing body of this State, or of any institution of state government, or an agent, employee, or board or governing body of any political subdivision of this State shall not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that the person receiving the grant, tax abatement, or tax credit include a term described in subsection (B) in a contract document for any construction, improvement, maintenance, or renovation to real property or fixtures that are the subject of the grant, tax abatement, or tax credit.

 (D) This section does not prohibit an agent or employee of this State, a board or governing body of this State, or of any institution of state government, or an agent, employee, or board or governing body of any political subdivision of this State from awarding a contract, grant, tax abatement, or tax credit to a private owner, bidder, contractor, or subcontractor who enters into or who is party to an agreement with a labor organization if being or becoming a party or adhering to an agreement with a labor organization is not a condition for award of the contract, grant, tax abatement, or tax credit, and if the state agent, employee, or board or the political subdivision does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract, grant, tax abatement, or tax credit based upon the person’s status as being or becoming, or the willingness or refusal to become, a party to an agreement with a labor organization.

 (E) This section does not prohibit a contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with one or more labor organizations in regard to a contract with this State or a political subdivision of this State or funded in whole or in part from a grant, tax abatement, or tax credit from this State or political subdivision.

 (F) This State or the governing body of a political subdivision may exempt a particular project, contract, subcontract, grant, tax abatement, or tax credit from the requirements of any or all of the provisions of subsection (B) or (C) if the State or governing body of the political subdivision finds, after public notice and a hearing, that special circumstances require an exemption to avert an imminent threat to public health or safety. A finding of special circumstances under this section must not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

 (G) This section does not do either of the following:

 (1) prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the National Labor Relations Act, 29 U.S.C. Sections 151‑169; or

 (2) interfere with labor relations of parties that are left unregulated under the National Labor Relations Act, 29 U.S.C. Sections 151‑169.

HISTORY: 2013 Act No. 46, Section 1, eff June 7, 2013.