

**SECTION 8-11-10.** Repealed by 2007, Act No. 73, Section 1, eff June 13, 2007.

**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 XLN, eff July 1, 2002.

**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.

**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 State Budget and Control Board, 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 State Budget and Control Board 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.

**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.

**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 State Budget and Control Board. This schedule must continue from one fiscal year to another without interruption, on a twice-monthly basis. The State Budget and Control Board 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.

**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 State Budget and Control Board. 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 State Budget and Control Board 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.

**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 State Budget and Control Board. 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 Budget and Control Board.

**HISTORY:** 1977 Act No. 186 Section 2.

**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.

**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.

**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 Budget and Control Board that because of limited staffing compliance with the original ninety day limit is not feasible and upon approval of such extension by the Board.

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

**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).

**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.

**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.

**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.

**SECTION 8-11-81.** Repealed by 1992, Act No. 364, Section 4, eff July 1, 1992.

**SECTION 8-11-82.** Repealed by 1992 Act No. 364, Section 4, eff July 1, 1992.

**SECTION 8-11-83.** Payroll deduction for dues of State Employees' Association.

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.

No membership dues or any portion thereof deducted pursuant to this section may be paid to any national or multi-state association or group.

Dues for the South Carolina Law Enforcement Officers' Association may also 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 as apply to the other deductions under this section also apply to the deductions of dues for the South Carolina Law Enforcement Officers' Association.

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.

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

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

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

The Comptroller General, or any state department, institution, or agency of state government authorized by the State Budget and Control Board 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.

**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.

**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.

### **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.

**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.

**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.

**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.

**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.

**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 Budget and Control Board, the Comptroller General may prescribe any procedures necessary to carry out the provisions of this section.

HISTORY: 1981 Act No. 149, Section 1.

**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.

**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.

**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 State Budget and Control Board 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.

**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.

**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.

**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.

**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 State Budget and Control Board. 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.

**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.

**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.

**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 State Budget and Control Board 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.

**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.

**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.

**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 State Budget and Control Board 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.

**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.

**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 State Budget and Control Board 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 State Budget and Control Board 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 State Budget and Control Board 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.

#### **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 State Budget and Control Board 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.

**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.

**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 Division of Budget and Analyses of the Budget and Control Board;
- (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.

**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 State Budget and Control Board 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.

**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.

**SECTION 8-11-230.** Creation, duties and administrative head of State Personnel Division; duties of State Budget and Control Board.

There is hereby created as a part of the State Budget and Control Board, 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 Budget and Control Board 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.

**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.

**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 Budget and Control Board 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.

**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 Judge Division;
- (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.

**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 State Budget and Control Board.
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.

**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.

**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.

**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 State Budget and Control Board 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).

#### 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.

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

#### 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.

**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.

(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.

**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.

**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.

**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 State Budget and Control Board, 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.

**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.

**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 Budget and Control Board upon appeal by the employee.

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

**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 State Budget and Control Board. 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.

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 State Budget and Control Board.

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

**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.

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

In conformity with guidelines established by the State Budget and Control Board, 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.

**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 State Budget and Control Board, 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.

**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.

**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 State Budget and Control Board, 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.

**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.

## 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).

**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 State Budget and Control Board.

(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).

**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).

**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.

**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).