

The State of South Carolina



Office of the Attorney General

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March 28, 1991

Louis L. Rosen, Director
South Carolina Court Administration
P. O. Box 50447
Columbia, South Carolina 29250

Dear Mr. Rosen:

In a letter to this Office you referenced that Act 678 of 1988 in establishing a salary schedule for probate judges and magistrates also requires counties to adjust annually the salaries for these offices. Provisions, codified as Sections 22-8-40(E) and 8-21-765(B) of the Code, state that

A cost of living increase must be paid by the county in the amount provided classified state employees in the annual state general appropriations act of the previous fiscal year. The base salaries provided ... must be adjusted annually based on the percentage amount of the cost of living increase paid to classified state employees in the annual state general appropriations act of the previous fiscal year.

You indicated that the State general appropriations act of 1990-1991 in section 14.33(A) provides

Effective on the first pay date which occurs on or after September 1, of the current fiscal year, the compensation of classified employees shall be increased by 2.5%.

You have asked when the 2.5% increase should be effective for magistrates and probate judges.

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A prior opinion of this Office dated December 22, 1988 dealt with the cost of living raises for these offices. The opinion commented that by statute no specific date was established for the increases and legislative clarification was desirable. The opinion referenced Section 4-9-140 of the Code which states

The fiscal year of the county government shall begin on the first day of July of each year and shall end on the thirtieth day of June next following, and the fiscal year shall constitute the budget year of the county government.

The opinion stated

... the General Assembly is presumed to act with full knowledge of the effect of an act and with full information as to the existing conditions and relevant facts. Also, the General Assembly is presumed to have knowledge of prior legislation when any subsequent legislation is enacted ... Presumably, therefore, the General Assembly was aware that the fiscal year for counties runs from July 1 to June 30. Consistent with such, it appears that the better reading of the referenced legislation supports making cost of living raises effective July 1 ... Also, making such raises effective on July 1 ..., the first day of a new fiscal year ... would be consistent with the language in Sections 22-8-40(E) and 8-21-765(B) that raises are based on the increases given state employees "the previous fiscal year".


Further support for this construction is the language in the referenced statutes that the salaries "must be adjusted annually." Such language is also supportive of an adjustment on a twelve month basis as opposed to an adjustment at another time.

Therefore, it appears that the effective date of the cost of living raises for magistrates and probate judges would be July 1. The amount of the raise would be 2.5%. Also, the adjustment of the base salaries for these offices in this same amount would also be effective July 1.

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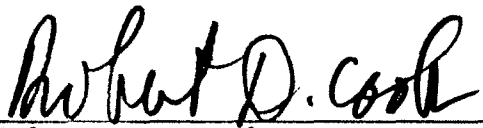
If there is anything further, please advise.

Sincerely,


Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook
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