

1978 S.C. Op. Atty. Gen. 223 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-199, 1978 WL 22667

Office of the Attorney General

State of South Carolina

Opinion No. 78-199

November 27, 1978

**\*1 SUBJECT: Public Information**

- (1) Personnel Division's disclosure of salary of State employees to 1. Comptroller General
2. State Auditor
3. Budget and Control Board
4. Legislators
5. State Reorganization Commission
6. Legislative Audit Council

TO: Dr. Jack S. Mullins  
Director  
Personnel Division of the Budget and Control Board

QUESTIONS:

1. Under the Freedom of Information Act may: a. The State Personnel Division release data concerning budgets, audits and payrolls to the staff of the Comptroller General and State Auditor; and may b. The members and executive director of the Budget and Control Board receive personal data of state employees from the Personnel Division; and may c. Members of the Legislature have access to personal data concerning state employees.
2. Whether [Section 1-19-150, 1976 Code of Laws of South Carolina](#), permits the State Reorganization Commission to receive personal data concerning state employees from the State Personnel Division.
3. Whether the Legislative Audit Council is entitled to receive personal data concerning state employees from the State Personnel Division pursuant to [Section 2-15-60, 1976 Code of Laws of South Carolina](#).

STATUTES AND CASES:

1976, Code of Laws of South Carolina, as amended, [Sections 1-11-20, 1-19-150, 2-15-60, 8-11-230, 11-3-130, 11-7-20, 30-3-10 et seq. Title V USC 552\(A\)](#), the Privacy Act of 1974. Atty. Gen. Op. No. \_\_\_\_ (August 5, 1977).

DISCUSSION:

The Freedom of Information Act, § 30-3-10 et seq., 1976 Code of Laws of South Carolina as amended, does not expressly prohibit disclosure of information; rather it provides an agency with the opportunity to invoke its protection when the

agency prefers to keep certain information confidential.\* A prior opinion of this Office dated August 5, 1977, stated that salary data is public information, but personal information i.e., work history, home address and home telephone number may be kept confidential.

1. The Personnel Division may release data concerning payroll information to the Comptroller General and to the State Auditor. According to [Section 1-11-20 of the 1977 Code of Laws of South Carolina](#), the State Auditor is the director of the Finance Division of the Budget and Control Board. The State Auditor is charged by law to examine the 'books, accounts, receipts, disbursements, vouchers and records of all State officers charged with the receipts and expenditure of public funds.' [Section 11-7-20](#). Since the State Auditor is charged with reviewing the accounts of all state officers which receive or spend public funds, it naturally must be informed of all expenditures of public funds and the Personnel Division must inform the State Auditor of payroll expenditures.

According to [Section 11-3-130, of the Code](#), payroll checks are issued by the State Treasurer pursuant to a warrant of the Comptroller General. The Comptroller General must be informed of the salaries of state employees by the Personnel Division so that it can advise the State Treasurer of the amount of money due a state employee.

\*2 2. According to [Section 1-11-20, of the Code](#), the Personnel Division is a component of the Budget and Control Board. [Section 8-11-230 of the Code](#) authorizes the Budget and Control Board to:

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.

The Personnel Division is that part of the Budget and Control Board that maintains a personnel data bank, and it may reveal data collected to the Budget and Control Board.

3. There is no law that expressly prohibits the Personnel Division from confidentially disclosing the salaries of state employees to members of the legislature for legislative purposes. While Section 5(a)(6) of Act 593, 1978 Acts and Joint Resolutions of the General Assembly of South Carolina, seems to forbid such disclosure, one must note that the law says that salaries of public employees below the level of department head 'may be exempt from disclosure.' The law does not state in what specific circumstances this information may be disclosed or kept confidential, but one can safely assume the legislature intended that its members have access to this information for legislative purposes.

4. The State Reorganization Commission may obtain data from the Personnel Division pursuant to [Section 1-19-150 of the Code](#) if the information requested is 'relevant to any examination or investigation.'

5. The Legislative Audit Council is authorized to conduct fiscal investigations pursuant to [Section 2-15-60\(b\) of the Code](#). The Personnel Division may turn over payroll information to the Legislative Audit Council to facilitate the Council's investigations.

#### CONCLUSION:

The State Freedom of Information Act does not prevent the disclosure of payroll information to the State Auditor, to the Comptroller General, to the Budget and Control Board, to members of the General Assembly, to the State Reorganization Commission and to the Legislative Audit Council.

Barbara J. Hamilton  
State Attorney

Footnotes

- \* The federal Privacy Act of 1974 may forbid personal information of public employees from being disclosed by an agency if that agency receives funds from the federal government pursuant to a contract in which the terms of [Title V USC 552\(A\)](#) are incorporated.

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