

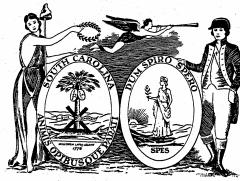
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State Budget and Control Board

OFFICE OF HUMAN RESOURCES

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MEMORANDUM

TO: Agency Heads and Human Resources Directors of the Offices of the Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, Comptroller General, Superintendent of Education, Adjutant General, Commissioner of Agriculture, Department of Alcohol and Other Drug Abuse Services, the Department of Commerce, the Department of Corrections, the Department of Health and Human Services, the Department of Insurance, the Department of Juvenile Justice, the Department of Labor, Licensing and Regulation, the Department of Parks, Recreation and Tourism, the Department of Probation, Parole, and Pardon Services, the Department of Revenue, the Department of Social Services, the State Law Enforcement Division, the Department of Motor Vehicles, and the Department of Public Safety

FROM: Samuel L. Wilkins, Director
Office of Human Resources

DATE: June 26, 2008

SUBJECT: Proviso Deleted in the 2008-2009 Appropriation Act

By provisos initially included in the 2003-04 Appropriation Act, certain employees of the Offices of the Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, Comptroller General, Superintendent of Education, Adjutant General, and the Commissioner of Agriculture were declared exempt from the provisions of the State Employee Grievance Procedure Act. Specifically, in these constitutional offices, all employees who report directly to the agency head or report directly to a person who reports to the agency head would no longer have grievance rights.

In addition, management employees having a similar reporting structure as noted above in the constitutional offices and employed by the Department of Alcohol and Other Drug Abuse Services, the Department of Commerce, the Department of Corrections, the Department of Health and Human Services, the Department of Insurance, the Department of Juvenile Justice, the Department of Labor, Licensing and Regulation, the Department of Parks, Recreation and Tourism, the Department of Probation, Parole, and Pardon Services, the Department of Revenue, the Department of Social Services, the State Law Enforcement Division, the Department of Motor Vehicles, and the Department of Public Safety were also declared exempt from the provisions of the State Employee Grievance Procedure Act.

You may recall that in subsequent fiscal years similar provisos were included in the Appropriation Act and continued to exempt certain employees in these agencies from the State Employee

Grievance Procedure Act. The 2007-2008 Appropriation Act, however, did not include a proviso exempting these employees except for employees in the Office of the Lieutenant Governor. In the Office of the Lieutenant Governor, employees who report directly to the Lt. Governor remained exempt from the State Employee Grievance Procedure Act. Employees in all of the other agencies listed above who were exempt from the State Employee Grievance Procedure Act solely because of the provisos were affected by the deletion.

When an employee moves from an uncovered position without grievance rights to a covered position with grievance rights, the employee must successfully complete a probationary period before attaining grievance rights. Consequently, effective July 1, 2007, employees in positions previously affected by the provisos began serving a 12-month probationary period before attaining grievance rights. The usual probationary period for these employees would extend from July 1, 2007, through June 30, 2008. State Human Resources Regulations, however, allow an agency head to count up to six months of prior service toward completion of a probationary period under certain circumstances. The same analysis applies in the event of a reassignment, demotion, transfer, or reorganization which affects an employee's grievance rights. As such, agency heads at their discretion may count up to six months of prior service toward completion of the probationary period for these employees.

This legislative year, a proviso exempting certain employees in the previously mentioned reporting structures and agencies was reintroduced in the House as a part of the Appropriations Bill, but later deleted by the Senate. As a result, generally, those employees affected by the proviso in the 2006-2007 Appropriation Act, will attain grievance rights and become covered under the State Employee Grievance Procedure Act effective July 1, 2008. Consequently, agencies will need to update their organizational charts and HRIS to reflect those employees affected by this change. When entering EPMS performance ratings for this review period into HRIS on these employees, the system will require that the "Grievance Rights" field be updated. Organizational charts should be updated to reflect that these employees have grievance rights and must be distinguishable from those positions and employees not covered under the State Employee Grievance Procedure Act.

In addition, Section 73.1 of the 2008-2009 Appropriation Act expands the employees exempt in the Lieutenant Governor's Office from the State Employee Grievance Procedure Act. As in previous provisos, employees who report directly to the Lieutenant Governor will continue to be exempt from the provisions of the State Employee Grievance Procedure Act. Section 73.1, however, also includes employees in the Lieutenant Governor's Office that report directly to a person who reports directly to the Lieutenant Governor. This change will become effective July 1, 2008.

It is important to note that some employees exempted by this proviso before it was eliminated were also exempted from the State Employee Grievance Procedure Act as a result of other language as found in §8-17-370 of the S.C. Code of Laws. These employees will not be affected by the deletion of the proviso from the 2007-2008 Appropriation Act and will continue to remain exempt from the provisions of the State Employee Grievance Procedure Act based on the other language.