CHAPTER 3

Workers’ Compensation Commission

**SECTION 42‑3‑10.** Creation and departments of South Carolina Workers’ Compensation Commission.

There is created the South Carolina Workers’ Compensation Commission, hereinafter referred to as the commission, composed of a judicial and administrative department and constituted and administered as provided for in this title.

HISTORY: 1962 Code Section 72‑50; 1952 Code Section 72‑51; 1942 Code Section 7035‑54; 1936 (39) 1231; 1952 (47) 1925; 1964 (53) 1918; 1974 (58) 2251; 1980 Act No. 481; 1986 Act No. 399, Section 2, eff May 6, 1986.

RESEARCH REFERENCES

Treatises and Practice Aids

Couch on Insurance Section 133:23, Role of Administrative Bodies.

**SECTION 42‑3‑20.** Membership, terms of office, vacancies and duties of commission, chairman.

(A) The commission shall consist of seven members appointed by the Governor with the advice and consent of the Senate for terms of six years and until their successors are appointed and qualify. In the event the Governor does not fill a vacancy within sixty days after the vacancy occurs, the commission by majority vote shall deputize a person with suitable experience, training, and knowledge to serve as a deputy commissioner to serve until such time as the Governor fills the vacancy. As soon as the Governor appoints a replacement who is confirmed by the Senate, the deputy commissioner shall immediately cease to serve in that office. While serving as a deputy commissioner, the deputy commissioner has the power and authority to swear or cause the witnesses to be sworn and shall transmit all testimony and shall make a recommendation to the commission for an award. The commission must determine the award based upon testimony received by the deputy commissioner and may consider the deputy commissioner’s recommendation.

(B) The Governor, with the advice and consent of the Senate, shall designate one of the seven commissioners as chairman for a term of two years. At the conclusion of a commissioner’s two‑year term as chairman, the Governor shall appoint or reappoint a commissioner to serve as chairman. If the Governor does not appoint or reappoint a chairman at the expiration of the two‑year term, a majority of the commission shall elect from among their members an interim chairman who shall serve until the Governor appoints another chairman. A deputy commissioner is not eligible to serve as chairman. Any person appointed to the commission is subject to removal as provided in Section 1‑3‑240(C).

(C) The commissioners shall hear and determine all contested cases, conduct informal conferences when necessary, approve settlements, hear applications for full commission reviews, and handle such other matters as may come before the department for judicial disposition. Full commission reviews shall be conducted by all commissioners, excluding the original hearing commissioner, or by three‑member panels, excluding the original hearing commissioner, appointed by the chairman. The chairman, with approval of a majority of the other commissioners, shall determine which full commission reviews shall be assigned to panels. The decisions of three‑member panels have the same force and effect as full commission reviews.

HISTORY: 1962 Code Section 72‑50.1; 1952 Code Section 72‑51; 1943 Code Section 7035‑54; 1936 (39) 1231; 1952 (47) 1925; 1964 (53) 1918; 1974 (58) 2251; 1978 Act No. 522 Section 1; 1980 Act No. 481; 1981 Act No. 163; 1981 Act No. 178 Part II Section 15; 2007 Act No. 111, Pt I, Section 11, eff July 1, 2007, applicable to injuries that occur on or after that date; 2016 Act No. 140 (S.975), Section 1, eff March 14, 2016.

Effect of Amendment

2016 Act No. 140, Section 1, rewrote (B).

Library References

Workers’ Compensation 1076 to 1095.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 809 to 825, 827 to 839.

RESEARCH REFERENCES

Treatises and Practice Aids

Modern Workers’ Compensation Section 300:3, Administrative Jurisdiction.

Modern Workers’ Compensation Section 310:11, Decision.

Attorney General’s Opinions

Although service as a workers’ compensation commissioner and a deputy law enforcement officer with Department of Natural Resources does not contravene the State Constitutional prohibition against dual office holding, it has the appearance of a conflict of interest. S.C. Op.Atty.Gen. (May 13, 2015) 2015 WL 3429139.

A court would likely find that the intent of the General Assembly is made clear in Proviso 58.3, and that the Workers’ Compensation Commission has the authority to charge a $25.00 filing fee for all hearings, settlements, and motions unless the individual is indigent. S.C. Op.Atty.Gen. (August 30, 2010) 2010 WL 3505048.

In absence of express statutory authority, neither South Carolina Industrial Commission nor its Commissioners can delegate duty to approve settlement under Workers’ Compensation Act to Deputy Commissioner. 1985 Op.Atty.Gen., No. 85‑77, p 207, 1985 WL 166047.

When the Full Industrial Commission reviews a Single Commissioner’s order and the Full Commission is equally divided three to three, the Single Commissioner’s order will stand as affirmed. 1979 Op.Atty.Gen., No. 79‑6, p 11, 1979 WL 29012.

Approval of applications of self‑insurers and approval of the medical fee schedule are judicial functions and duties of the Judicial Department of the Industrial Commission. The Industrial Commission also administers the fund set aside for major medical benefits to school bus passengers in excess of those benefits provided in Code 1962 Section 21‑840(1)(a) [Code 1976 Section 59‑67‑710(1)(a)]. 1974‑75 Op.Atty.Gen., No. 3937, p 19, 1975 WL 22235.

NOTES OF DECISIONS

In general 1

1. In general

Section 42‑3‑20, which provides that full commission reviews in workers’ compensation cases may be conducted by 3‑member panels, allows a 2‑to‑one vote by the 3‑member panel to reverse the decision of a hearing commissioner. This construction of the statute does not violate equal protection on the ground that the class of litigants whose appeals are heard by 3‑member panels are treated differently than litigants whose appeals are heard by other panels, since in all instances the votes required for reversal bear at least a 2‑to‑one ratio to those for affirmance. Howard v. Owen Steel Co. (S.C. 1991) 303 S.C. 304, 400 S.E.2d 149.

The full commission, as the ultimate fact‑finder, may make its own findings adverse to those of the single commissioner. The final determination of witness credibility and the weight to be accorded evidence is reserved to the full commission. Ross v. American Red Cross (S.C. 1989) 298 S.C. 490, 381 S.E.2d 728. Administrative Law And Procedure 484.1; Workers’ Compensation 1820

In contested cases, the full commission serves as the ultimate factfinder. Hunter v. Patrick Const. Co. (S.C. 1986) 289 S.C. 46, 344 S.E.2d 613.

The hearing commission, although a factfinder, is primarily concerned with the gathering of evidence, and the full commission is not bound by those findings of fact, and may make its own findings and reach its own conclusions of law either consistent or inconsistent with those of the single commissioner. Hunter v. Patrick Const. Co. (S.C. 1986) 289 S.C. 46, 344 S.E.2d 613.

**SECTION 42‑3‑25.** Chairman; executive director.

The chairman is the chief executive officer of the commission and shall execute the policies established by the commission in its capacity as the governing body of the judicial and administrative departments.

The executive director of the commission shall report to the chairman and be responsible to the commission.

HISTORY: 1980 Act No. 481; 2006 Act No. 327, Section 1, eff June 2, 2006.

Library References

Workers’ Compensation 1081.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 830 to 831, 833 to 839.

**SECTION 42‑3‑30.** Promulgation of rules and regulations by commission.

The commission shall promulgate all regulations relating to the administration of the workers’ compensation laws of this State necessary to implement the provisions of this title and consistent therewith.

HISTORY: 1962 Code Section 72‑50.2; 1952 Code Section 72‑59; 1942 Code Section 7035‑57; 1936 (39) 1231; 1937 (40) 613; 1974 (58) 2251; 1980 Act No. 481.

CROSS REFERENCES

Regulations of the South Carolina Workers’ Compensation Commission, see S.C. Code of Regulations R. 67‑101 et seq.

Requirements for promulgation of policies or procedures implementing Section 42‑15‑90, see Section 42‑3‑185.

Library References

Workers’ Compensation 1091.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 825, 828 to 829.

RESEARCH REFERENCES

Treatises and Practice Aids

Modern Workers’ Compensation Section 300:6, Rulemaking.

Attorney General’s Opinions

The Industrial Commission has jurisdiction to entertain claims of the Second Injury Fund at Claimant v. Employer/Carrier hearings. The degree of participation by the Second Injury Fund at these hearings, in absence of statutory directives, is controlled by the procedural mandates provided in Title 42 and the Industrial Commission’s rule‑making authority provided for in Section 42‑3‑30. If the Second injury Fund is allowed to participate in Claimant v. Employer/Carrier hearings, it is bound by the decision as to questions of law and fact and therefore in order to protect the Second Injury Fund’s rights and remedies under the Act, the Second Injury Fund must be provided an opportunity to apply for a review of the decision. 1980 Op.Atty.Gen., No. 80‑33, p. 64, 1980 WL 81917.

NOTES OF DECISIONS

In general 1

1. In general

The Workers’ Compensation Commission may properly approve lump sum attorney’s fees to claimants awarded lifetime benefits, to be deducted from the end of the claimant’s award pursuant to Reg. 67‑1207. Glover by Cauthen v. Suitt Const. Co. (S.C. 1995) 318 S.C. 465, 458 S.E.2d 535, rehearing denied. Workers’ Compensation 1980.18

Section 42‑9‑10 and Reg 67‑1207, when read together, clearly evince a legislative intent to permit recovery of lump sum attorney’s fees to any claimant who receives benefits in excess of 100 weeks. Glover by Cauthen v. Suitt Const. Co. (S.C. 1995) 318 S.C. 465, 458 S.E.2d 535, rehearing denied.

Where the board or commission under its authority to make rules required an employer denying liability to file a denial in writing, specifying the facts and circumstances on which he relied as a defense, grounds of defense not so specified could not be considered. Chapman v. Foremost Dairies, Inc. (S.C. 1967) 249 S.C. 438, 154 S.E.2d 845.

**SECTION 42‑3‑40.** Salaries of commissioners.

The annual salary for the commissioners shall be eighty‑five percent of the salary paid to the circuit judges of the State. The commissioners shall receive a subsistence allowance of thirty‑five dollars a day while in the performance of their duties outside the Columbia office.

HISTORY: 1962 Code Section 72‑50.3; 1952 Code Sections 72‑51, 72‑52; 1942 Code Sections 7035‑54, 7035‑55; 1936 (39) 1231; 1951 (47) 506; 1952 (47) 1925; 1964 (53) 1918; 1974 (58) 2251; 1978 Act No. 644 Part II Section 40; 1978 Act No. 522 Section 2; 1980 Act No. 481.

Library References

Workers’ Compensation 1081.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 830 to 831, 833 to 839.

Attorney General’s Opinions

Discussion of subsistence/per diem payments for members of the commission. S.C. Op.Atty.Gen. (Nov. 18, 2002) 2002 WL 31958832.

**SECTION 42‑3‑60.** Administrative assistant to commissioner.

Each commissioner shall be authorized to employ an administrative assistant to serve at the commissioner’s pleasure.

HISTORY: 1962 Code Section 72‑50.5; 1952 Code Section 72‑54; 1942 Code Section 7035‑55; 1936 (39) 1231; 1974 (58) 2251; 1980 Act No. 481; 2007 Act No. 111, Pt I, Section 12, eff July 1, 2007, applicable to injuries that occur on or after that date.

Library References

Workers’ Compensation 1084.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 817 to 818.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Action Section 14, Determination of Private Rights.

NOTES OF DECISIONS

In general 1

1. In general

Statute providing that each commissioner of the Workers’ Compensation Commission was “authorized to employ a secretary and a court reporter to serve at his pleasure” did not create a cause of action for the court reporters, as would allow court reporters to bring an action challenging their termination under the Commission’s workforce reduction plan. Morris v. South Carolina Workers’ Compensation Com’n (S.C. 2006) 370 S.C. 85, 634 S.E.2d 651. Action 3; Courts 57(.5)

**SECTION 42‑3‑80.** Executive director of administrative department.

The administrative department of the commission shall be under the direction of the executive director. The director must be appointed by the commission, shall serve at its pleasure, and shall receive an annual salary not to exceed eighty‑five percent of the salary paid to the commissioners.

The administrative director shall receive and be responsible for all files and records of the Workers’ Compensation Commission and shall refer all claims to the judicial department for disposition and receive from that department reports, information and statistics as to the disposition of claims. He also shall be responsible for the referral to the South Carolina Vocational Rehabilitation Department of all industrially injured persons that need vocational counseling or vocational evaluation, personal adjustment, training and placement.

In the performance of his duties, the director is authorized to:

(a) with the approval of the chairman of the commission, appoint and discharge, if necessary, all support personnel within the administrative department except division directors;

(b) compile all statistics and reports concerning the administration of workers’ compensation laws and the disposition of claims related thereto;

(c) conduct administrative operations of the commission in accordance with the provisions of this title and regulations promulgated thereunder.

HISTORY: 1962 Code Section 72‑50.7; 1974 (58) 2251; 1980 Act No. 481; 2005 Act No. 85, Section 1, eff May 26, 2005; 2006 Act No. 327, Section 2, eff June 2, 2006.

Library References

Workers’ Compensation 1081.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 830 to 831, 833 to 839.

**SECTION 42‑3‑90.** Divisions of administrative department.

There shall be established within the administrative department the following divisions, each headed by a division director recommended by the administrative director with the concurrence of the chairman and subject to the approval of the commission.

(1) The Division of Coverage and Compliance;

(2) The Division of Claims and Statistics;

(3) The Division of Medical Services.

Each division shall perform such functions and duties as may be assigned to it by the director of the administrative department subject to the provisions of Section 42‑3‑25.

HISTORY: 1962 Code Section 72‑50.8; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1076.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 809, 811.

**SECTION 42‑3‑100.** Annual budget.

The commissioners shall annually prepare and the chairman shall annually submit to the Governor and the General Assembly a budget for the Workers’ Compensation Commission.

HISTORY: 1962 Code Section 72‑50.9; 1974 (58) 2251; 1980 Act No. 481.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

Workers’ Compensation 1090.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

**SECTION 42‑3‑105.** Commission’s authority to double fines and penalties; penalties for noncompliance by uninsured employers.

The Worker’s Compensation Commission is authorized to double the amount of fines and penalties assessed for each violation of the workers’ compensation law, except that for employers found to be uninsured in violation of the workers’ compensation law, the minimum amount of the penalty assessed shall be seven hundred fifty dollars a year of noncompliance and the maximum amount of the penalty shall be one thousand dollars a year of noncompliance. The commission is further authorized to retain and expend all revenues received as a result of these collections.

HISTORY: 2003 Act No. 61, Section 2, eff Aug. 19, 2003.

Editor’s Note

2003 Act No. 61, Section 19, provides as follows:

“This act takes effect at 12:00 p.m. on the first Tuesday following sixty days after the signature of the Governor [June 19, 2003], or August 19, 2003, whichever is later.”

Library References

Workers’ Compensation 1090.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

**SECTION 42‑3‑110.** Approval of expense and travel vouchers.

The commissioners of the judicial department and the director of the administrative department shall approve all expense and travel vouchers for their respective departments.

HISTORY: 1962 Code Section 72‑50.10; 1952 Code Section 72‑53; 1942 Code Section 7035‑55; 1936 (39) 1231; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1090.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

**SECTION 42‑3‑120.** Advisory committee.

There is hereby created the advisory committee for improvement of the workers’ compensation laws of South Carolina, consisting of five members appointed by the Governor for terms of five years and until successors are appointed and qualify. One member shall be an attorney experienced in practice representing claimants, one member shall be an attorney experienced in practice representing defendants, one member shall be a representative of industry, one member shall be a representative of labor and one member shall be a representative of the general public. A chairman shall be elected by the committee. The committee shall meet at least quarterly to consider improvements in workers’ compensation laws and monitor the effectiveness of existing law. Recommendations for changes in the law shall be recommended annually to the General Assembly. Committee members shall serve without compensation but shall receive mileage, subsistence and per diem as provided by law for boards, committees and commissions payable from an annual appropriation from the general fund of the State.

HISTORY: 1962 Code Section 72‑50.11; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1096.10.

Westlaw Topic No. 413.

**SECTION 42‑3‑130.** Service of subpoenas; witness fees.

The county sheriffs and their respective deputies shall serve all subpoenas of the commission or its deputies and shall receive the same fees as are provided by law for like services. Provided, however, if the witness is in another county, the subpoena may be served by any person authorized to serve subpoenas in the county where the action originated. Each witness who appears in obedience to such subpoena of the commission shall receive for attendance the fees and mileage for witnesses in civil cases in courts of the county in which the hearing is held.

HISTORY: 1962 Code Section 72‑50.13; 1952 Code Section 72‑61; 1942 Code Section 7035‑57; 1936 (39) 1231; 1937 (40) 613; 1974 (58) 2025, 2251; 1980 Act No. 481.

Library References

Sheriffs and Constables 42, 95.

Workers’ Compensation 1980.5.

Westlaw Topic Nos. 353, 413.

C.J.S. Sheriffs and Constables Sections 65, 517.

C.J.S. Worker’s Compensation Section 1575.

**SECTION 42‑3‑140.** Power of commission to subpoena witnesses, administer oaths and examine books and records.

The commission or any member thereof, or any person deputized by it, may, for the purpose of this title, subpoena witnesses, administer or cause to be administered oaths and examine or cause to be examined such parts of the books and records of the parties to proceedings as relate to questions in dispute.

HISTORY: 1962 Code Section 72‑50.14; 1952 Code Section 72‑62; 1942 Code Section 7035‑57; 1936 (39) 1231; 1937 (40) 613; 1974 (58) 2251; 1980 Act No. 481.

CROSS REFERENCES

Prohibition against retaliation based upon an employee’s participation in proceedings under this title, see Section 41‑1‑80.

Library References

Oath 2.

Workers’ Compensation 1090.

Westlaw Topic Nos. 280, 413.

C.J.S. Aliens Section 250.

C.J.S. Oaths and Affirmations Sections 5 to 6.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

**SECTION 42‑3‑150.** Manner in which attendance of witnesses and production of books and records may be compelled.

The commission in the discharge of its duties may administer oaths and affirmations, take depositions and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary in connection with any proceeding under this title.

No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda or other records before the commission on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self‑incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying or from civil prosecution, penalties or forfeitures pursuant to the provisions of this title.

In case of contumacy by any person or refusal to obey a subpoena issued to any person, the commission may issue to such person an order requiring him to appear before the commission to produce evidence if so ordered or to give testimony touching the matter under investigation. Any failure to obey an order of the commission may be punished as a contempt thereof.

Any person who shall without just cause fail or refuse to attend and testify, to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do so in accordance with a subpoena of the commission, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty nor more than two hundred dollars or by a term of imprisonment for not more than thirty days. Each failure to obey a subpoena shall constitute a separate offense. Subpoenas shall be issued in the name of the commission and shall be signed by a commissioner. Subpoenas shall be issued to such persons as the commission may designate.

In addition, the commission may punish for contempt in the manner authorized by this section any person whose disorderly conduct in any commission proceeding interferes with the orderly process of such proceeding.

HISTORY: 1962 Code Section 72‑50.15; 1952 Code Section 72‑63; 1942 Code Section 7035‑57; 1936 (39) 1231; 1937 (40) 613; 1974 (58) 2251; 1978 Act No. 469 Section 1; 1978 Act No. 522, Section 4; 1980 Act No. 481.

Library References

Oath 2.

Workers’ Compensation 1090.

Westlaw Topic Nos. 280, 413.

C.J.S. Aliens Section 250.

C.J.S. Oaths and Affirmations Sections 5 to 6.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Disorderly Conduct Section 11, Particular Proceedings.

Treatises and Practice Aids

Modern Workers’ Compensation Section 308:16, Witnesses.

Modern Workers’ Compensation Section 308:19, Contempt.

Attorney General’s Opinions

The state Industrial Commission is without authority to obtain patient records directly from the Department of Mental Health unless one of the exceptions to Section 44‑23‑1090 applies; however, the Commission may subpoena a compensation claimant to produce his medical records. 1989 Op.Atty.Gen., No. 89‑48, p 124, 1989 WL 406138.

The Industrial Commission is without authority to issue a subpoena for disclosure of income tax records maintained by the South Carolina Tax Commission. However, the Industrial Commission has adequate authority to issue a subpoena to a party in a proceeding before it requiring that he produce his income tax returns, and to enforce the subpoena by appropriate administrative order. 1986 Op.Atty.Gen., No. 86‑11, p 48, 1986 WL 191973.

**SECTION 42‑3‑160.** Manner in which depositions of witnesses shall be taken.

Any party to a proceeding pending under this title or his attorney may cause the depositions of witnesses, either within or without the State, to be taken either by commission or de bene esse. Such depositions shall be taken in accordance with and subject to the same provisions, conditions and restrictions as apply to the taking of like depositions in civil actions at law in the courts of common pleas and the same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony and the transmission and certification thereof and matters of practice relating thereto shall apply. In any case in which testimony shall be taken by commission, such commission shall be issued, upon request of the party or his attorney, by some member of the commission. The provisions of this section shall not be so construed as to prevent the commission or any deputy commissioner from issuing commissions for the taking of testimony, even in the absence of any application therefor, when in its or his judgment it is deemed necessary or appropriate.

HISTORY: 1962 Code Section 72‑50.16; 1952 Code Section 72‑64; 1942 Code Section 7035‑57; 1936 (39) 1231; 1937 (40) 613; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1686.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Section 1161.

RESEARCH REFERENCES

Treatises and Practice Aids

Modern Workers’ Compensation Section 308:17, Written Testimony.

**SECTION 42‑3‑170.** Manner in which hearings shall be conducted.

Hearings before the commission shall be open to the public and shall be stenographically reported and the commission may contract for the reporting of such hearings. The commission shall by regulation provide for the preparation of a record of the hearings and other proceedings.

HISTORY: 1962 Code Section 72‑50.17; 1952 Code Section 72‑65; 1942 Code Section 7035‑56; 1936 (39) 1231; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1076.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 809, 811.

RESEARCH REFERENCES

Treatises and Practice Aids

Modern Workers’ Compensation Section 308:14, Open Hearings.

Modern Workers’ Compensation Section 308:22, Record.

NOTES OF DECISIONS

In general 1

1. In general

Public nature of hearings makes all awards, decisions and opinions of the Industrial Commission, together with transcripts, available to insurance company in particular and public in general. Blue Cross and Blue Shield v. South Carolina Indus. Commission (S.C. 1980) 274 S.C. 204, 262 S.E.2d 35.

**SECTION 42‑3‑175.** Failure to pay claims; sanctions; notice to Department of Insurance.

(A)(1) If a claimant brings an action before the commission to enforce an order authorizing medical treatment or payment of benefits and the commission determines that an insurer, a self‑insured employer, a self‑insured fund, or an adjuster, without good cause, failed to authorize medical treatment and/or pay benefits when ordered to do so by the commission, the insurer, the self‑insured employer, the self‑insured fund, or the adjuster must pay the claimant’s attorneys’ fees and costs of enforcing the order. The commission may impose sanctions for wilful disobedience of an order, including, but not limited to, a fine of up to five hundred dollars for each day of the violation.

(2) The commission must notify the Department of Insurance of an insurer’s or an adjuster’s failure to authorize and pay benefits for medical treatment. If the Director of the Department of Insurance or his or her designee determines that there has been a violation of any provision of Title 38, he may impose penalties for each violation, including, but not limited to, administrative penalties pursuant to Section 38‑2‑10.

(B)(1) If the commission discovers a pattern of an insurer failing to pay benefits pursuant to an award, as defined in item (2), the chairman must notify the Director of the Department of Insurance. The director or his or her designee must hold a hearing to determine if the insurer had good cause for nonpayment. If the director or his or her designee determines that nonpayment was intentional three or more times within a two‑year period, the director may revoke the license of the insurer to do business in this State. If the director or his or her designee revokes the license of the insurer, he must take any steps he considers necessary for the protection of the insurer’s policyholders in this State.

(2) For purposes of this section, a pattern is established upon an insurer’s failure to pay an award at least three times within a two‑year period by failing to pay:

(a) for individual claims;

(b) for a claim in which the claimant had to request enforcement of an award; or

(c) any combination of subitems (a) and (b).

(3) All fines collected pursuant to this section must be submitted to the general fund.

HISTORY: 2007 Act No. 111, Pt I, Section 13, eff July 1, 2007, applicable to injuries that occur on or after that date.

Library References

States 126.

Workers’ Compensation 1042.17, 1042.30.

Westlaw Topic Nos. 360, 413.

C.J.S. States Sections 383 to 385.

C.J.S. Worker’s Compensation Sections 1616 to 1618.

Attorney General’s Opinions

Sanctions imposed by the Workers’ Compensation Commission fall under Section 42‑3‑220, and the revenue from such fines and penalties is to be used for paying the salaries and expenses of the Commission. S.C. Op.Atty.Gen. (April 18, 2011) 2011 WL 1740737.

**SECTION 42‑3‑180.** Commission to decide questions arising under title.

All questions arising under this title, if not settled by agreement of the parties interested therein with the approval of the commission, shall be determined by the commission, except as otherwise provided in this title.

HISTORY: 1962 Code Section 72‑50.18; 1952 Code Section 72‑66; 1942 Code Section 7035‑68; 1936 (39) 1231; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1090.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

RESEARCH REFERENCES

Treatises and Practice Aids

Modern Workers’ Compensation Section 300:3, Administrative Jurisdiction.

Attorney General’s Opinions

In absence of express statutory authority, neither South Carolina Industrial Commission nor its Commissioners can delegate duty to approve settlement under Worker’s Compensation Act to Deputy Commissioner. 1985 Op.Atty.Gen., No. 85‑77, p 207, 1985 WL 166047.

NOTES OF DECISIONS

In general 1

Construction and application 2

Jurisdiction 3

Review 4

1. In general

The right to worker’ compensation is wholly statutory, not existing except under the circumstances provided in the Workers’ Compensation Act. Price v. Peachtree Elec. Services, Inc. (S.C.App. 2011) 396 S.C. 403, 721 S.E.2d 461, rehearing denied, certiorari granted, affirmed as modified 405 S.C. 455, 748 S.E.2d 229. Workers’ Compensation 2

Workers’ Compensation Commission had authority to prorate a lump sum award for permanent disability over claimant’s life expectancy using life expectancy table provided by state law, even without the consent of employer and carrier, in case in which claimant sought to minimize the offset of her Social Security benefits; nothing in Workers’ Compensation Act prohibited, either expressly or impliedly, the proration language at issue, proration did not affect amount of workers’ compensation award, and proration was purely an accounting mechanism specifically approved of by the Social Security Administration in determining the amount of a Social Security offset. James v. Anne’s Inc. (S.C. 2010) 390 S.C. 188, 701 S.E.2d 730, rehearing denied. Workers’ Compensation 1005

“Substantial evidence,” as required to support findings of fact made by the Workers’ Compensation Commission, is not mere scintilla of evidence, nor evidence viewed blindly from one side of case, but is evidence which, considering record as whole, would allow reasonable minds to reach conclusion administrative agency reached in order to justify its action. Corbin v. Kohler Co. (S.C.App. 2002) 351 S.C. 613, 571 S.E.2d 92. Workers’ Compensation 1939.4(4)

The final determination of witness credibility and the weight to be accorded evidence in workers’ compensation cases is reserved to the Full Commission. Etheredge v. Monsanto Co. (S.C.App. 2002) 349 S.C. 451, 562 S.E.2d 679, rehearing denied. Workers’ Compensation 1939.6

Where there are conflicts in the evidence over a factual issue in a workers’ compensation case, the findings of the Commission are conclusive. Etheredge v. Monsanto Co. (S.C.App. 2002) 349 S.C. 451, 562 S.E.2d 679, rehearing denied. Workers’ Compensation 1939.5

The Workers’ Compensation Commission is not bound to consider only the medical testimony before it; circumstantial evidence and lay testimony can also support an award. Lloyd v. AT & T Nassau Metals Corp. (S.C.App. 1989) 299 S.C. 207, 383 S.E.2d 257. Workers’ Compensation 1414; Workers’ Compensation 1417

A commissioner of the Industrial Commission had authority to determine that a claimant was a deceased employee’s dependent, even though another commissioner had previously decided that the deceased’s widow was the only dependent, since the prior adjudication did not have a res judicata affect on the claimant where the claimant had no notice or knowledge of the initial dependency hearing and was not a party to or otherwise represented in the hearing. Norwood v. American Tobacco Co. (S.C.App. 1988) 296 S.C. 415, 373 S.E.2d 694. Workers’ Compensation 1792

An injured employee could not maintain an action in the court predicated on the alleged refusal of his employer and his employer’s insurance carrier to pay Workers’ Compensation benefits, since the action involved a situation expressly covered by the Workers’ Compensation Act, and for which the Act provided a remedy, which was exclusive; the Act providing that if an employer and injured employee fails to reach an agreement in regard to compensation within 14 days after the employer has knowledge of the injury, then the worker may make application to the Industrial Commission for a hearing in regard to the matters at issue and for ruling thereon, and further providing that all questions arising under the Act, if not settled by agreement of the parties, should be determined by the Industrial Commission. Cook v. Mack’s Transfer & Storage (S.C.App. 1986) 291 S.C. 84, 352 S.E.2d 296, certiorari denied 292 S.C. 230, 355 S.E.2d 861.

2. Construction and application

Only disputes ancillary to an employee’s right to compensation arise under the Workers’ Compensation Act. Price v. Peachtree Elec. Services, Inc. (S.C.App. 2011) 396 S.C. 403, 721 S.E.2d 461, rehearing denied, certiorari granted, affirmed as modified 405 S.C. 455, 748 S.E.2d 229. Workers’ Compensation 45

Claims not affecting the employee’s right to compensation are within the purview of the Circuit Court, not of the Workers’ Compensation Commission. Price v. Peachtree Elec. Services, Inc. (S.C.App. 2011) 396 S.C. 403, 721 S.E.2d 461, rehearing denied, certiorari granted, affirmed as modified 405 S.C. 455, 748 S.E.2d 229. Workers’ Compensation 1086; Workers’ Compensation 1187

Workers’ compensation law is to be liberally construed in favor of coverage in order to serve the beneficent purpose of the Workers’ Compensation Act; only exceptions and restrictions on coverage are to be strictly construed. James v. Anne’s Inc. (S.C. 2010) 390 S.C. 188, 701 S.E.2d 730, rehearing denied.

3. Jurisdiction

Workers’ Compensation Commission’s authority was derived strictly from statute in derogation of the common law, and therefore Commission lacked subject matter jurisdiction to consider employer’s equitable claim for reimbursement of benefits paid to claimant, where employer’s claim was a claim for reimbursement against another employer, a claim that did not affect employee’s right to compensation, and only claims ancillary to an employee’s right to compensation arose under the Workers’ Compensation Act. Price v. Peachtree Elec. Services, Inc. (S.C.App. 2011) 396 S.C. 403, 721 S.E.2d 461, rehearing denied, certiorari granted, affirmed as modified 405 S.C. 455, 748 S.E.2d 229. Workers’ Compensation 1078; Workers’ Compensation 2215

When there is a pending employee claim for compensation, the exclusive jurisdiction for the determination of questions concerning cancellation, coverage, construction of insurance contracts, and the like, is in the Workers’ Compensation Commission. However, where there exists no pending employee claim for compensation, the Commission lacks the jurisdiction to decide such questions. Labouseur v. Harleysville Mut. Ins. Co. (S.C. 1990) 302 S.C. 540, 397 S.E.2d 526. Workers’ Compensation 1086

Absent an express statutory restriction on the broad power of the Workers’ Compensation Commission to determine a deceased worker’s dependents under the workers’ compensation law, the Commission has jurisdiction to determine the issue of paternity when determining dependency. Although the family court has exclusive jurisdiction under Section 20‑7‑420 to hear and determine actions to determine the paternity of an individual, and the determination of dependency necessarily requires a resolution of the issue of paternity, nothing in Section 20‑7‑420 either gives the family court exclusive jurisdiction to determine dependency under the workers’ compensation law or restricts the Commission’s jurisdiction to determine the issue of dependency where death benefits are claimed by a “child” under the workers’ compensation law. Brown v. Ryder Truck Rental (S.C.App. 1990) 300 S.C. 530, 389 S.E.2d 161.

The Workers’ Compensation Commission has subject matter jurisdiction only where the relationship of employer and employee exists at the time of the alleged injury for which the claim is made. The principal that parties cannot by consent confer jurisdiction upon a court also applies to the Workers’ Compensation Commission. McCreery v. Covenant Presbyterian Church (S.C.App. 1989) 299 S.C. 218, 383 S.E.2d 264, reversed 303 S.C. 271, 400 S.E.2d 130. Workers’ Compensation 1179

The issue of subject matter jurisdiction may be raised even though an agreement for compensation was executed and approved by the Workers’ Compensation Commission. McCreery v. Covenant Presbyterian Church (S.C.App. 1989) 299 S.C. 218, 383 S.E.2d 264, reversed 303 S.C. 271, 400 S.E.2d 130. Workers’ Compensation 1186

The phrase “contract of hire” in Section 42‑1‑130 connotes payment and a worker who neither receives nor expects payment for his or her services is not generally considered an employee within the definition. Thus, a volunteer who donated his labor in the construction of a church was not an employee under the workers’ compensation law, and therefore the Workers’ Compensation Commission did not have subject matter jurisdiction over his claims, where there was no evidence that he was paid wages or had a right to demand payment, and there was no evidence that he had entered into a tithing agreement with the church so that his work could be considered as a credit toward his tithe obligation. McCreery v. Covenant Presbyterian Church (S.C.App. 1989) 299 S.C. 218, 383 S.E.2d 264, reversed 303 S.C. 271, 400 S.E.2d 130.

The Workers’ Compensation Commission has exclusive jurisdiction over the subject matter of an action that is brought by an employer against a workers’ compensation insurance carrier for an alleged cancellation of a workers’ compensation insurance policy. Labouseur v. Harleysville Mut. Ins. Co. (S.C.App. 1989) 298 S.C. 213, 379 S.E.2d 291, affirmed as modified 302 S.C. 540, 397 S.E.2d 526.

4. Review

In an appeal from the Workers’ Compensation Commission, Court of Appeals may not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law. Pratt v. Morris Roofing, Inc. (S.C.App. 2003) 353 S.C. 339, 577 S.E.2d 475, rehearing denied, certiorari granted, affirmed as modified 357 S.C. 619, 594 S.E.2d 272. Workers’ Compensation 1939.1; Workers’ Compensation 1939.6

Employee waived on appeal issue of whether he was a “covered contractor” and thus not subject to “detailed instructions and paternalistic discipline” from his employer, in workers’ compensation case, as employee failed to raise issue to Worker’s Compensation Commission or to trial court. Pratt v. Morris Roofing, Inc. (S.C.App. 2003) 353 S.C. 339, 577 S.E.2d 475, rehearing denied, certiorari granted, affirmed as modified 357 S.C. 619, 594 S.E.2d 272. Workers’ Compensation 1847

Trial court applied “substantial evidence” standard of review when it reviewed decision of Workers’ Compensation Commission, even though court’s statements appeared to suggest court was applying “cracked door” standard of review in which scintilla of evidence would be sufficient to sustain decision; court’s statements were merely contemporaneous colloquy and final written order correctly articulated “substantial evidence” standard. Corbin v. Kohler Co. (S.C.App. 2002) 351 S.C. 613, 571 S.E.2d 92. Workers’ Compensation 1939.4(4)

A court may not substitute its judgment for that of any agency as to the weight of the evidence on questions of fact unless the agency’s findings are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. Etheredge v. Monsanto Co. (S.C.App. 2002) 349 S.C. 451, 562 S.E.2d 679, rehearing denied. Administrative Law And Procedure 791; Administrative Law And Procedure 793

For purposes of judicial review of an agency decision, substantial evidence on which to affirm an agency decision is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action. Etheredge v. Monsanto Co. (S.C.App. 2002) 349 S.C. 451, 562 S.E.2d 679, rehearing denied. Administrative Law And Procedure 791

A court may reverse or modify the Workers’ Compensation Commission’s decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are affected by other error of law. Etheredge v. Monsanto Co. (S.C.App. 2002) 349 S.C. 451, 562 S.E.2d 679, rehearing denied. Workers’ Compensation 1945; Workers’ Compensation 1946

After an appeal in a workers’ compensation action seeking the return of benefits paid, the Circuit Court had jurisdiction over the insurer’s motion for restitution even though the matter was initially determined by the Circuit Court and not the Workers’ Compensation Commission where, although the Supreme Court of South Carolina did not expressly remand the matter, the remittitur was sent to the Circuit Court. Moore v. North American Van Lines (S.C. 1995) 319 S.C. 446, 462 S.E.2d 275.

The Circuit Court had jurisdiction to entertain a claimant’s motion for an order compelling his employer to make payments of permanent partial disability benefits accruing after the date of decision by the Industrial Commission, notwithstanding the requirement of Section 42‑3‑180 that all issues arising under the Workers’ Compensation Title be first submitted to the Commission for determination, since Section 42‑17‑70 allows payment of weekly compensation accruing after the date of the Commission’s award; however, where a proceeding was remanded, no payments would be required until expiration of the 30‑day period following the Commission’s decisions on the remanded issues. McLeod v. Piggly Wiggly Carolina Co. (S.C.App. 1984) 280 S.C. 466, 313 S.E.2d 38.

**SECTION 42‑3‑185.** Promulgation of policies or procedures implementing Section 42‑15‑90.

Any policies or procedures implementing the provisions of Section 42‑15‑90 shall become effective only when such implementation is accomplished by regulations promulgated in accordance with the Administrative Procedures Act, which proposed regulations shall have before promulgation received approval of the Judiciary Committees of the Senate and House of Representatives and also by concurrent Resolution of the General Assembly.

HISTORY: 1980 Act No. 481.

CROSS REFERENCES

Administrative Procedure Act, see Section 1‑23‑310 et seq.

Promulgation of regulations, generally, see Section 42‑3‑30.

Library References

Workers’ Compensation 1094.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 825, 828 to 829.

RESEARCH REFERENCES

Treatises and Practice Aids

Modern Workers’ Compensation Section 300:6, Rulemaking.

Attorney General’s Opinions

Although a contrary interpretation may be argued, it is doubtful that Section 42‑15‑90 may be construed as presently authorizing approval by the Industrial Commission of employers’ or carriers’ attorneys fees. However, should the General Assembly desire, for public policy reasons, to encompass the supervision of defense fees within the scope of Section 42‑15‑90, a statute expressly authorizing such is recommended. Assuming that Section 42‑15‑90 may be construed as authorizing approval by the Industrial Commission of employers’ or carriers’ attorneys fees, such approval must be made by the exercise of quasi‑judicial discretion, rather than a ministerial act. Moreover, and again assuming that Section 42‑15‑90 authorizes approval of defense fees, pursuant to the express mandate of Section 42‑3‑185 the Industrial Commission would be required to submit to the General Assembly for review any policy or procedures related to the approval of defense attorneys fees in compensation cases. 1986 Op.Atty.Gen., No. 86‑60, p 185, 1986 WL 192020.

NOTES OF DECISIONS

In general 1

1. In general

Actions by the Workers’ Compensation Commission to require the submission and approval of attorney’s fees prior to the effective date of a regulation authorizing the Commission to do so exceeded the Commission’s authority and thus were void. Bazzle v. Huff (S.C. 1995) 319 S.C. 443, 462 S.E.2d 273. Workers’ Compensation 1092

**SECTION 42‑3‑190.** Preparation and furnishing of forms and literature.

The commission shall prepare, cause to be printed and upon request furnish, free of charge to any employee, such blank forms and literature as it shall deem requisite to facilitate or prompt the efficient administration of this title.

HISTORY: 1962 Code Section 72‑50.19; 1952 Code Section 72‑67; 1942 Code Section 7035‑58; 1936 (39) 1231; 1974 (58) 2251; 1980 Act No. 318, Section 4; 1980 Act No. 481.

Library References

Workers’ Compensation 1096.5.

Westlaw Topic No. 413.

**SECTION 42‑3‑195.** Commission to provide information and statistics; confidentiality.

The commission shall cooperate with and provide information and statistics to the South Carolina Commissioner of Labor, which the Commissioner of Labor and his designees may use solely for the following limited purposes:

(1) scheduling inspections pursuant to Section 41‑15‑260 for compliance with occupational safety and health rules and regulations;

(2) statistical evaluation of hazards.

The information and statistics provided pursuant to this section are confidential and exempt from disclosure pursuant to the Freedom of Information Act, except that the Commissioner of Labor may reveal to the federal Occupational Safety and Health Administration, on a confidential basis, the results of statistical evaluations of hazards as long as no identifying information is revealed.

Upon trial of any action other than a workers’ compensation claim, such information shall not be placed in evidence or be permitted to be argued to any court, jury, or other adjudicatory body.

HISTORY: 1993 Act No. 121, Section 1, eff June 14, 1993.

CROSS REFERENCES

Freedom of Information Act, see Section 30‑4‑10 et seq.

Federal Aspects

Federal Occupational Safety and Health Administration, generally, see 29 U.S.C.A. Sections 651 et seq.

Library References

Records 55.

Workers’ Compensation 1090.

Westlaw Topic Nos. 326, 413.

C.J.S. Records Sections 121, 133.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Labor Relations Section 38, Enforcement Procedure.

**SECTION 42‑3‑210.** Tabulation and publication of accident reports.

The commission shall tabulate the accident reports received from employers in accordance with Sections 42‑19‑10 and 42‑19‑20 and shall publish them in the annual report of the commission and as often as it may deem advisable, in such detailed or aggregated form as it may deem best. The name of the employer or employee shall not appear in such publications and the employers’ reports shall be private records of the commission and shall not be open for public inspection except for the inspection of the parties directly involved, and then only to the extent of such interest, including third party interests. These reports shall not be used as evidence by or against any employer in any suit at law brought by any employee for the recovery of damages, except by order of the court for good cause shown.

HISTORY: 1962 Code Section 72‑50.21; 1952 Code Section 72‑69; 1942 Code Section 7035‑58; 1936 (39) 1231; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1090.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

RESEARCH REFERENCES

Treatises and Practice Aids

Modern Workers’ Compensation Section 306:11, Injury Reports.

**SECTION 42‑3‑220.** Collection of fines and penalties; use of proceeds.

The commission may, by civil action brought in its own name, enforce the collection of any fines or penalties provided by this title and such fines and penalties shall be used for the purpose of paying salaries and expenses of the commission.

HISTORY: 1962 Code Section 72‑50.22; 1952 Code Section 72‑70; 1942 Code Sections 7035‑78, 7035‑79; 1936 (39) 1231; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1090.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

Attorney General’s Opinions

Sanctions imposed by the Workers’ Compensation Commission fall under Section 42‑3‑220, and the revenue from such fines and penalties is to be used for paying the salaries and expenses of the Commission. S.C. Op.Atty.Gen. (April 18, 2011) 2011 WL 1740737.

**SECTION 42‑3‑230.** Destruction of inactive files.

The commission may from time to time, as it may consider advisable, destroy any of its inactive files that are at least fifteen years old. The commission may maintain these files in either paper or electronic form. No files of the commission shall be considered inactive until the commission is satisfied that the files will be of no further use.

HISTORY: 1962 Code Section 72‑50.23; 1952 Code Section 72‑71; 1944 (43) 1207; 1974 (58) 2251; 1980 Act No. 481; 2007 Act No. 111, Pt I, Section 14, eff July 1, 2007, applicable to injuries that occur on or after that date.

Library References

Workers’ Compensation 1096.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Section 826.

**SECTION 42‑3‑240.** Annual reports.

The commission shall publish annually for free distribution a report of the administration of this title, together with such recommendations as the commission deems advisable, and shall submit annually to the Governor and the General Assembly a report showing receipts, expenditures and disbursements of the commission for the fiscal year terminating on June thirtieth preceding the time of such report.

HISTORY: 1962 Code Section 72‑50.24; 1952 Code Section 72‑73; 1942 Code Section 7035‑55; 1936 (39) 1231; 1947 (45) 147; 1974 (58) 2251; 1980 Act No. 481.

Library References

Workers’ Compensation 1090.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 815 to 816, 819 to 821, 827.

**SECTION 42‑3‑250.** Commissioners bound by Code of Judicial Conduct; continuing education requirement.

(A) The commissioners are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules, and the State Ethics Commission is responsible for enforcement and administration of Rule 501 pursuant to Section 8‑13‑320. Commissioners must also comply with the applicable requirements of Chapter 13, Title 8.

(B) Each year, the commissioners and their administrative assistants must attend a workshop of at least three continuing education hours concerning ethics and the Administrative Procedures Act.

HISTORY: 2005 Act No. 36, Section 1, eff April 15, 2005.

CROSS REFERENCES

Requesting higher court review, South Carolina Workers’ Compensation Commission, see S.C. Code of Regulations R. 67‑712.

Library References

Workers’ Compensation 1081.

Westlaw Topic No. 413.

C.J.S. Worker’s Compensation Sections 830 to 831, 833 to 839.

RESEARCH REFERENCES

Treatises and Practice Aids

Couch on Insurance Section 133:23, Role of Administrative Bodies.

Attorney General’s Opinions

Although service as a workers’ compensation commissioner and a deputy law enforcement officer with Department of Natural Resources does not contravene the State Constitutional prohibition against dual office holding, it has the appearance of a conflict of interest. S.C. Op.Atty.Gen. (May 13, 2015) 2015 WL 3429139.