



SOUTH CAROLINA ASSOCIATION OF COUNTIES

Paul A. Cain, President
Oconee County

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Executive Director

September 27, 2021

REGULATION AND CASE LAW UPDATE

To: Chief Administrative Officer; County Attorney
From: SCAC Legal Staff

SCAC legal staff compiles a monthly update of agency regulations and appellate court opinions impacting county government operations. CAOs/Attorneys are encouraged to forward this update to impacted county departments.

REGULATIONS

SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY CHAPTER 37

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq.

Notice of Drafting

The South Carolina Criminal Justice Academy has announced it intends to amend several regulations related to reporting, case hearings and denial of recertification of officers for misconduct.

Contested Case Hearings

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-105** that addresses *contested case hearings*. The proposed regulation will define the procedure for holding contested case hearing.

Denial of Certification for Misconduct

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-025** that addresses the *denial of certification for misconduct*. The proposed regulation will define misconduct for the denial of certification of law enforcement officers.

Final Decisions by Law enforcement Training Council

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-107** that addresses final decisions by the Law Enforcement Training Council. The proposed regulation will define the procedure for the issuance of final agency decisions by the Law Enforcement Training Council.

Request for a Contested Case Hearing

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-101** that addresses request for a contested case hearing. The proposed regulation will define the process for requesting a contested case hearing. Legislative review of this proposal will be required.

Withdrawal of Certification of Law Enforcement Officers

The South Carolina Criminal Justice Academy proposes to amend the Regulation 37-026 that addresses the withdrawal of certification of law enforcement officers. The proposed regulation will define grounds for the withdrawal of certification of law enforcement officers.

Notice of Public Hearing and Opportunity for Public Comment

A public hearing will be held at **10:00 a.m. on November 15, 2021** in the Clifford A. Moyer Conference Room, 5400 Broad River Road, Columbia, South Carolina 29212.

Written comments may be submitted to:

Bradley J. Young
Office of General Counsel
South Carolina Criminal Justice Academy,
5400 Broad River Road, Columbia, S.C. 29210.

To be considered, comments must be received **no later than 5:00 p.m. on November 12, 2021.**

COURT UPDATE

South Carolina Supreme Court

Pinckney, et al. v. Peeler, et al., Appellate Case No. 2020-000970, September 22, 2021

Areas of Law: SC Heritage Act, Home Rule, Legislative Procedure.

This case involved several legal challenges to the South Carolina Heritage Act. The Plaintiffs argued that the Act was unconstitutional in that it limited future General Assemblies by requiring a two-thirds vote of the body to amend or repeal the Act's provision limiting the right to remove, alter, or rename certain historical monuments or structures. The plaintiffs also argued the Act violated "Special Legislation" and "Home Rule" provisions of the state constitution. The court struck down the two-thirds vote requirement found in SC Code Section 1-10-165(B) finding that one legislative body cannot restrict the plenary powers of a future legislative body unless such restriction is provided for in the constitution.

The court rejected the plaintiffs' arguments that the Act violated prohibitions on "special legislation" and violations of local "home rule." The court held that Section 1-10-165 was both reasonably necessary and not an overreach of legislative authority and thus not "special legislation." Finally, the court held that the Act did not apply to a specific county or geographic area. Therefore, the Act did not violate Article VIII of the constitution.

The result of the decision is that the Act no longer requires a two-thirds vote by the General Assembly to amend or repeal Section 1-10-165. However, the General Assembly continues to be the sole body with the authority to remove, alter, or rename certain historical monuments or structures located on public property.

The full opinion can be found here:

<https://www.sccourts.org/opinions/HTMLFiles/SC/28062.pdf>