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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

October 15, 2003

The Honorable Emmet F. Brooks
Clerk of Court, Greenwood County
528 Monument Street
Greenwood, South Carolina 29646

Dear Mr. Brooks:

In a letter to this office you referenced that you had been appointed to fill the unexpired term of the clerk of court for Greenwood County. The former clerk's salary was set at \$46,592.00. You indicated that your county council had taken action to reduce that salary to \$35,000.00. You also indicated that you were familiar with a former opinion of this office, 1985 Op. Att. Gen. No. 85-107, a copy of which is enclosed, which indicated that a county council was not authorized to reduce the salary of an individual appointed to fill the vacancy in the office of clerk of court for the remainder of the unexpired term of office. You have questioned whether that opinion remains valid.

The 1985 opinion referenced S.C. Code Ann. Section 8-21-300 (Supp. 2002) which indicates that "(t)he clerks of court...shall receive such salaries for performance of their duties...which shall not be diminished during their terms of office..." That provision has remained essentially unchanged since the opinion was issued. I have located copies of two other opinions of this office dated October 6, 1986 and December 12, 1986, copies of which are enclosed, which are in agreement with the 1985 opinion. Those opinions referenced the general rule that "...where a change in compensation during the term of an officer is prohibited, a change cannot affect one subsequently appointed to fill the vacancy of an existing term."

Based upon my review, the 1985 opinion remains valid. As to your question regarding the course of action you should take to resolve the issue with the county, I would suggest that you forward copies of the opinions to your county manager and county attorney for their review.

Sincerely,

Charles H. Richardson
Senior Assistant Attorney General

Enclosures