

1977 S.C. Op. Atty. Gen. 101 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-117, 1977 WL 24459

Office of the Attorney General

State of South Carolina

Opinion No. 77-117

April 25, 1977

*1 Mr. A. Baron Holmes
Ways and Means Committee
State House
Columbia, South Carolina

Dear Mr. Holmes:

In your recent letter, you state that, at the present time, the Ways and Means Committee is drafting the 1976–1977 Supplemental Appropriations Bill. Before the end of the current fiscal year, there will be two members of the House of Representatives who will have served only part of the session. One was sworn in on April 19, 1977; and the other will be elected and sworn in-sometime during June, 1977. You request that we advise you as to the rate at which they are entitled to be paid so that they may be paid accordingly.

The Constitution of South Carolina provides in part as follows:

. . . Members of the General Assembly shall not receive any compensation for more than forty days of any one session: . . . S.C. CONST. Art. III, Section 9 (1895).

Our Supreme Court has interpreted the foregoing to mean that members of the General Assembly are to receive compensation on a per diem basis, and that such amount as the General Assembly fixed as compensation for its members would not be an annual salary; . . . [Godfrey v. Hunter](#), 176 S.C. 442, 180 S.E. 468 (1935).

And this Office has stated that Article III, Section 9 means that the compensation that is to be paid legislative members is an annual compensation based on a forty-day legislative session. 1963–1964 OP.ATTY.GEN. No. 1667 at 107.

It is our opinion, therefore, that legislative members who are elected to fill unexpired terms of office, like those whom they replace, are to receive ‘an annual compensation based on a forty-day legislative session’. The annual compensation of \$7,000.00 per member (See, 59 STAT. Act No. 709 at 1919 (1976)) amounts to the payment of \$175.00 or $\frac{1}{40}$ of the total amount for each of the first forty legislative days. The rate at which the two new members are to be paid is, therefore, the same as other members, $\frac{1}{40}$ of the annual sum, i.e., \$175.00 per day for each day served, up to \$7,000.00 beginning with the first legislative day which each member attends and concluding with the fortieth day which each attends during the current session. Cf., 81 C.J.S. States Section 366 at 948 (1953).

Best wishes,

C. Tolbert Goolsby, Jr.

1977 S.C. Op. Atty. Gen. 101 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-117, 1977 WL 24459