

The State of South Carolina



Office of the Attorney General

Opinion No. 87-1

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January 21, 1987

The Honorable Paul E. Short, Jr.
Member, House of Representatives
309A Blatt Building
Columbia, South Carolina 29211

Dear Representative Short:

By your letter of January 14, 1987, you have asked whether the salary of the Chester County Supervisor may be increased now rather than at the beginning of the next fiscal year. The question has arisen because of an apparent conflict between two sections of the Code of Laws of South Carolina.

Section 4-9-410 of the Code, relating to the council-supervisor form of government, provides in part that "compensation for the supervisor shall be prescribed by the council by ordinance. The council shall not reduce or increase the compensation of the supervisor during the term of office for which he was elected." On the other hand, Section 4-9-100 of the Code provides in part that the "restriction on salary changes does not apply to supervisors under the council-supervisor form of government whose salaries may be increased during their terms of office" The apparent conflict is evident and must be reconciled if at all possible. Adams v. Clarendon County School Dist. No. 2, 270 S.C. 266, 241 S.E.2d 897 (1978).

At the outset, it is noted that Sections 4-9-410 and 4-9-100 in their original forms were a part of the Home Rule Act, Act No. 283 of 1975. There have been no amendments to Section 4-9-410. Section 4-9-100 has been amended several times since the Home Rule Act was adopted; the amendment relevant to your inquiry was made by Act No. 300 of 1980. Prior to the adoption of this act, Section 4-9-100 contained no language permitting a supervisor's salary to be increased and thus did not conflict with Section 4-9-410.

The Honorable Paul E. Short, Jr.

Page 2

January 21, 1987

Act No. 300 of 1980 amended Section 4-9-100 "To Permit Salaries of Supervisors To Be Increased During Their Term Of Office," according to the title of the act. Section 5 of the act added, inter alia, the language of Section 4-9-100 quoted supra. Thus, this provision having been adopted in 1980 becomes the most recent expression of the legislative will in the matter.

Whenever possible, courts will construe conflicting statutes so as to give effect to both. Where, as here, reconciliation is not possible, the most recent expression of the legislative will is the law. Feldman v. South Carolina Tax Commission, 203 S.C. 40, 26 S.E.2d 22 (1943). Thus, the provisions of Section 4-9-100, permitting a salary increase during the supervisor's term of office, would prevail over the conflicting provisions of Section 4-9-410 of the Code.

Based on the foregoing, it is the opinion of this Office that the salary of a county supervisor may be increased during his term of office.

Sincerely,

Patricia D. Petway

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Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

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