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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

November 4, 2003

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

Dear Mr. Brooks:

You have raised additional questions following up on an opinion of this office to you dated October 15, 2003. That opinion was issued in response to the reduction in your salary following your appointment to the unexpired term of the clerk of court for Greenwood County. The opinion concluded that county council was not authorized to reduce the salary of an individual appointed to fill a vacancy in the office of clerk of court for the remainder of the unexpired term of office. The opinion 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 a vacancy of an existing term."

Referencing such, you have questioned the impact of a county council vote to reduce the existing clerk of court's salary prior to the appointment of the interim clerk of court. Such a vote is of no significance. As stated in the prior opinion, pursuant to Section 8-21-300, "(t)he clerks of court ...shall receive such salaries for performance of their duties...which shall not be diminished during their terms of office...." Therefore, county council would not be authorized to reduce the existing salary of the clerk of court prior to or after the appointment of the interim clerk.

You next asked whether Section 8-21-200 is violated when county council reduces the salary for the clerk of court position before the interim clerk of court is appointed. Again, such provision is quite specific in stating that the salary for the clerk of court shall not be diminished during his term of office. Again, it is the opinion of this office that a county council is not authorized to reduce the salary of an individual appointed to fill a vacancy in the office of clerk of court for the remainder of the unexpired term of office. A reduction in the salary of the clerk of court prior to the appointment of the interim clerk of court would be inconsistent with Section 8-21-200.

Sincerely,

Charles H. Richardson

Senior Assistant Attorney General