

The State of South Carolina



Office of the Attorney General

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August 5, 1991

The Honorable C. Albert Johnson
Chief Magistrate - York County
York County Office Building
P. O. Box 11166
Rock Hill, South Carolina 29731-1166

Dear Magistrate Johnson:

You have questioned whether counties are restricted in the amount of the cost of living raise provided magistrates.

Pursuant to Section 22-8-40 of the Code, a base salary is provided magistrates. Pursuant to subsection (e),

A cost of living raise must be paid by the county in the amount provided classified state employees in the annual state general appropriations act of the previous fiscal year....

Other provisions in such statute comment further on a county's responsibilities regarding magisterial salaries. Such provisions state:

No county may pay a magistrate lower than the base salary established for that county ...
Nothing in this section may be interpreted as prohibiting a county from paying a magistrate more than the base salary established for that county ...
Nothing contained in this section may be construed as prohibiting a county from paying in excess of the minimum base salaries provided for in this section.

Prior opinions of this Office dated April 11, 1991 and December 22, 1988 have indicated that nothing prohibits a county from paying an

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individual magistrate more than the base salary established. In the letter from the State Court Administration dated June 25, 1991 which you enclosed with your letter it was indicated that "... a county may offer raises to magistrates in excess of any raise required by statute."

Referencing the above, it is the opinion of this Office that while counties are required to provide magistrates a cost of living raise equal to that provided to state employees, there are no prohibitions to a county providing an amount in addition to such required raise. Therefore, this Office is in agreement with the State Court Administration Office that a county may provide a raise to a magistrate which exceeds the statutorily-required raise. Of course, any decision regarding raises is a matter of policy to be determined by the county.

If there is anything further, do not hesitate to contact me. With kind regards, I am

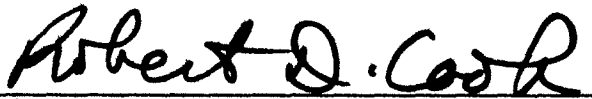
Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



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