



Office of the Attorney General

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February 27, 1990

The Honorable Sherry Martschink  
Senator, District No. 44  
502 Gressette Building  
Columbia, South Carolina 29202

Dear Senator Martschink:

In a letter to this Office you raised the following questions:

- 1) When a member of the General Assembly receives a message to return a long distance phone call and the call is political, but the nature of the call is unbeknownst to that member of the General Assembly, is that considered abuse of state-owned equipment?
- 2) If a legislator returns a phone call that is a long distance phone call and it is a political call and the legislator subsequently reimburses the state, is there any violation of a statute?
- 3) If a legislator is on a long distance call on state business and political questions arise during the conversation, is the legislator in violation of any statute and if so, would reimbursement to the state take care of that violation?

I am unaware of any statute or legislative rule that is directly responsive to your question. Section 16-13-400 of the Code, a copy of which I am enclosing, prohibits the avoiding or attempting to avoid payment for telecommunications services in the manner specified and is cited in a memorandum from the State Budget and Control

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Board in stating "(i)t is a violation of State law (Section 16-13-400) to abuse State Telecommunication Service." By such provision, fraudulent intent is an element and such intent is not clear in the circumstances you state in your letter. For your information, I am enclosing a copy of the referenced Budget and Control Board memorandum which establishes the proper use of State telephone services.

I would also refer you to the State Ethics Act, Sections 8-13-410 et seq. of the Code, which generally prohibits the use of a public office for financial gain. Upon review of such, however, I am unaware of any provision which directly comments on the situations raised in your letter. Of course, you may wish to contact the Senate Ethics Committee for their opinion on the questions raised.

In your letter you mentioned the possibility of making reimbursement to cover costs of telephone calls which involve political matters. While such reimbursement would cover the actual cost of the telephone call, there would arguably remain the further question of having access to State owned equipment, access not always granted to all members of the public. Again, however, I am not aware of a State statute which addresses or comments upon this situation.

With best wishes, I am

Very truly yours

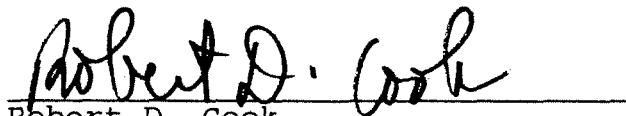


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Enclosures

REVIEWED AND APPROVED BY:



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