

The State of South Carolina



Office of the Attorney General

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January 17, 1990

The Honorable Joe E. Brown
Member, House of Representatives
330-A Blatt Building
Columbia, South Carolina 29211

Dear Representative Brown:

By your letter of December 28, 1989, you have asked for the opinion of this Office on the following question: Must a county council member be paid a fixed amount as reimbursement for actual expenses incurred in his or her duties as a member of council?

Section 4-9-100, Code of Laws of South Carolina (1976, as revised), provides in relevant part that "[m]embers [of county councils] may also be reimbursed for actual expenses incurred in the conduct of their official duties." In construing this statute previously, this Office has advised that actual expenses must be taken into account in providing such reimbursement, Ops. Atty. Gen. No. 78-66 and No. 4545 (copies enclosed), rather than providing a flat rate of reimbursement such as per diem or a set amount per month regardless of the expenses actually incurred (which could be more or less than the set amount). A fixed amount which did not take actual expenses into account was apparently not contemplated by the plain language of the statute.

This Office stated previously in Opinion No. 4545 that reimbursement must be based on actual expenses incurred rather than on a per diem or other basis. Similarly, Opinion No. 78-66 provides that a member of a county council may not be paid a fixed amount as reimbursement for actual expenses incurred in his duties as a member of council. Rather than a fixed amount, the member must show the expenses actually incurred so that the amount of reimbursement might be determined. The key is thus taking actual expenses into account rather than providing a flat rate of reimbursement notwithstanding the amount of expenses incurred.

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In conclusion, it is the opinion of this Office that a county council member's reimbursement for actual expenses incurred in the performance of official duties must take actual expenses into account rather than being provided at a flat or set rate notwithstanding actual expenses incurred.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

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