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The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

July 2, 1992

Gary A. Smoak, County Administrator
County of Orangeburg
P. o. Box 9000
Orangeburg, South Carolina 29116-9000

Dear Mr. Smoak:

Your letter regarding funding for the Solicitor's office for the First Judicial Circuit was referred to the Opinions Section for response. You indicated that Orangeburg County has traditionally funded the Solicitor's office at 100% but the same has not always been true as to Calhoun and Dorchester Counties. You questioned what advice we could provide as to a county's responsibility to fund the Solicitor's office at the appropriate level.

Sections 1-7-310 et seq. provide for the duties and responsibilities of the solicitors in this State. Pursuant to Section 1-7-325, solicitors are full-time employees of the State and receive a salary and expense allowance as provided by the General Assembly. By that same statute a full-time secretary whose salary is provided by the State is also authorized. See also: Section 1-7-360.

Section 1-7-405 states:

Each solicitor may appoint as many assistant solicitors, investigators and secretaries as he deems necessary and whose salaries are provided by the counties of the circuit in which they serve

Pursuant to Section 1-7-406

... each judicial circuit of this State, in addition to its other assistant solicitors, shall have one assistant solicitor and one investigator who shall be

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full-time employees ... The compensation of each such assistant solicitor and investigator or such other staff as may be designated by each solicitor for his circuit and related employment expenses shall be as provided by the General Assembly in the annual general appropriations act. Nothing contained herein shall prohibit the funds so provided for such staff to be designated by the solicitor as being utilized with local and federal funds.

Section 1-7-407 states

Each solicitor shall enter into an agreement with a county within his circuit to administer the funds so provided and the funds shall be directed to the administering county. The administering county shall account for the receipt and disbursement of the funds separately from any other funds administered by the county.

The solicitors may expend the funds for the employment of additional assistant solicitors, investigators and payment of expenses related to employment of such additional personnel, including fringe benefits and travel.

Personnel employed under the provisions of §§ 1-7-406 through 1-7-407. shall be employees of the administering county but all personnel costs, including fringe benefits, shall be paid by the administering county from funds provided under provisions of §§ 1-7-406 through 1-7-407.

As to the First Judicial Circuit, Section 1-7-420 states that an attorney who is a resident of Dorchester County may be appointed as an assistant solicitor to perform duties imposed upon the solicitor relating to Dorchester County. It is specifically provided that such assistant solicitor's compensation and expenses are to be paid by

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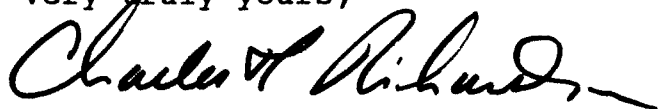
Dorchester County. Section 1-7-430 provides for an assistant solicitor for the First Judicial Circuit whose compensation is to be paid from funds provided by the Omnibus Crime Control and Safe Streets Act of 1968.

I am enclosing a copy of a prior opinion of this Office dated February 8, 1989 which dealt with a construction of Section 1-7-405 which again provides that salaries of assistant solicitors "are provided by the counties of the circuit in which they serve." In the circumstances involved in the opinion, the solicitor had designated a special assistant solicitor for a particular county. The opinion commented that "... the Solicitor and the ... County Council are certainly free to negotiate the appropriation for the operation of the Solicitor's office ... (in that County)." The opinion commented further that while recognizing that a solicitor is authorized to appoint a special assistant solicitor for a particular county, the solicitor is nevertheless required to attend and run, either personally or through an assistant, the general sessions court in that county.

Aside from the above, I am unaware of any other provisions which comment specifically on a county's obligation to fund a solicitor's office.

With kind regards, I am

Very truly yours,



Charles H. Richardson
Assistant Attorney General

CHR/an
Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions