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The State of South Carolina



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*Opinion 87-84*  
*P226*

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October 15, 1987

The Honorable Robert J. Sheheen  
Speaker of the House of Representatives  
Post Office Box 11867  
Columbia, South Carolina 29211

Dear Mr. Speaker:

By your letter of September 2, 1987, you have asked whether it is proper or legal for you, as Speaker of the House of Representatives, to approve expenditures of funds from the "House Approved Accounts" to pay expenses of women members of the General Assembly to attend meetings of the National Order of Women Legislators and black members of the General Assembly to attend meetings of the National Black Caucus of State Legislators. You indicate that you and previous Speakers have approved the expenditure of funds for these events, but the practice has been questioned. It is the opinion of this Office that as long as such expenses represent expenses incurred on official state business, such expenses may be paid from the "House Approved Accounts."

The proviso numbered 3.9 in the 1987-88 Appropriations Act, in subsection d provides the following:

Members of the Senate and the House of Representatives when traveling on official State business shall be allowed a subsistence as provided in item "a." above, transportation expenses as provided for by law and the regular per diem established in this Act for members of boards, commissions, and committees upon approval of the appropriate Chairman. When traveling on official business of the Senate or the House of Representatives not directly associated with a Committee of the General Assembly, members

shall be paid the same allowance upon approval of the President Pro Tempore of the Senate or the Speaker of the House of Representatives. In either instance, the members may elect to receive actual expenses incurred for lodging and meals in lieu of the allowable subsistence expense. The funds for the allowances specified in this proviso shall be paid from the Approved Accounts of the Senate or the House of Representatives or from the appropriate account of the agency, board, commission, task force or committee upon which the member serves.

Thus, the initial determination is whether the legislators described are traveling on official state business when attending meetings of these national organizations.

Authority within South Carolina for this proposition is meager at best but does support the conclusion that attendance at such meetings is in furtherance of the official's duties. In Brown v. Wingard, 285 S.C. 478, 330 S.E.2d 301 (1985), the South Carolina Supreme Court addressed a situation in which a city paid expenses of the mayor and city council members and their spouses to attend the 1982 National League of Cities Convention in Los Angeles, California. The court, in construing Section 5-7-170 of the Code of Laws of South Carolina (1976) which permits reimbursement for actual expenses of mayors and council members incurred in performing their official duties, at least impliedly found that the mayor and council members in question attended the convention in the performance of their official duties. Payment of expenses of the spouses was not authorized, however, nor did it constitute a valid public purpose for expenditure of public funds.

A number of decisions in other jurisdictions have upheld, as proper or legal, the expenditure of public funds for public officers or employees to attend conventions or conferences. For example, in Ward v. Frohmiller, 55 Az. 202, 100 P.2d 167 (1940), the court looked at expenses incurred in sending public officials to a convention of the Council of State Governments and to a meeting of the Civil Service Assembly. The court noted that the Arizona representatives would be able to discuss common problems with representatives of similar entities from other

The Honorable Robert J. Sheheen

Page 3

October 15, 1987

states in upholding the expenditure of funds. In Powell v. City and County of San Francisco, 144 P.2d 617 (Cal. Ct. App. 1944), the payment of expenses of city officials to present the city's view on proposed legislation pending in Congress was upheld. In Louisville and Jefferson County Board of Health v. Steinfeld, 308 Ky. 824, 215 S.W.2d 1011 (1948), expenses of public health officials to attend a medical conference were upheld; the court noted that hearing a specialist speak, being able to engage him in conversation, and seeing a demonstration of theory put into practice were more enlightening than reading about the same subject in a professional journal.

Finally, payments of expenses of city aldermen to attend meetings of the Mississippi Valley Association, the Rivers and Harbors Congress, and the Asphalt Association were upheld in Tousley v. Leach, 180 Minn. 293, 230 N.W. 788 (1930). The court noted that the aldermen would "bring back something of value," that the expenses were incurred "not for pleasure alone or merely cultural," and that attendance at such meetings was "of serious purpose in practical aid of public interests." Id., 230 N.W. at 789.

Applying the foregoing to the issue which you have raised, it would appear that payment of expenses for public officials or employees to attend conferences or conventions at which problems similar to those faced by this State are discussed, specialists or experts present solutions or technologies or methods of handling problems faced in South Carolina, or at which otherwise useful information is gained to be put into practice in this State, such convention or conference not being solely for the entertainment or pleasure of the public official or employee, would be proper. Each convention or conference would necessarily require evaluation on a case-by-case basis to make certain that state business would be served by attendance of the public officer or employee; the proposed or actual agenda of the conference or convention could be examined to make such a determination, as an example.

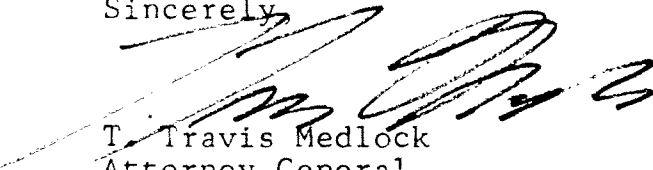
Therefore, assuming that the determination has been made, as discussed above, that the expenses would be incurred in furtherance of official state business by attendance at a conference or convention, such expenses may be properly paid from the "House Approved Account."

The Honorable Robert J. Sheheen  
Page 4  
October 15, 1987

We trust that the foregoing has been responsive to your inquiry. If we may provide additional assistance or clarification, please advise.

With kindest regards, I am

Sincerely,



T. Travis Medlock  
Attorney General

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