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The State of South Carolina



Office of the Attorney General

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August 27, 1987

The Honorable J. M. Long, Jr.
Senator, District No. 33
209 Beaty Street, Suite 205
Conway, South Carolina 29526

Dear Senator Long:

By your letter of August 10, 1987, you have asked whether Horry County, through its personnel policies, may require the employees of the Horry County Legislative Delegation to use a time clock. You have asked what, if any, control Horry County Council may exercise over employees of the Legislative Delegation.

The answer to your question is found within Section 3 of Act No. 283, 1975 Acts and Joint Resolutions, which expressly provides:

Under all forms of county government except the board of commissioners form, county councils shall provide office space and appropriations for the operation of the county legislative delegation office including compensation for staff personnel and necessary office supplies and equipment. The amount of such appropriations shall be determined by the legislative delegation and included in the annual county budget by the council. The delegation shall be responsible for the employment, supervision and discharge of all personnel employed in the delegation office. [Emphasis added.]

The use of the term "shall" connotes mandatory construction and therefore mandatory compliance with the statute. 2A Sutherland Statutory Construction §57.03. Thus, the Legislative Delegation is charged with responsibility for the employment, supervision, and discharge of the employees in the delegation office.

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One aspect of supervision of employees would include keeping records of hours worked. Because the Legislative Delegation is responsible for the supervision of its employees, it would not be appropriate for such employees to be required to use a time clock by Horry County Council.

This Office has issued several opinions concerning the use of time clocks by employees of other elected officials of the county. Ops. Atty. Gen. dated April 28, 1977; October 15, 1976; and July 27, 1977. These opinions concluded that employees of elected county officials are not excluded from the provisions of Section 4-9-30(7) of the Code of Laws of South Carolina (1976) as far as county procedures are concerned. The employees covered by these opinions were not subject to the provisions of Act No. 283 of 1975 cited above, however.

We trust that we have satisfactorily responded to your inquiry. Please advise if clarification or additional assistance should be needed.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:wle
Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions

cc: Connie Turner