

The State of South Carolina



Office of the Attorney General

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October 6, 1986

Jack Keown, Sheriff
County of McCormick
P. O. Box 1236
McCormick, South Carolina 29835-1236

Dear Sheriff Keown:

In a letter to this Office you questioned whether, inasmuch as you are serving both as coroner and as sheriff in McCormick County, you are entitled to receive the salaries and benefits currently budgeted by the County for both positions. Your service in both capacities results from the mandate of Section 23-11-50 of the Code which provides that during a vacancy in the office of sheriff, the coroner shall assume such office. 1/

In addition to requiring you, as coroner, to assume the office of sheriff in a vacancy situation, Section 23-11-50 further specifically provides that in assuming such office, as coroner, you are "... entitled to its fees and emoluments." Such provision is clear in mandating that in acting as sheriff, as coroner, you are entitled to receive no more and no less than the salary and other benefits budgeted for the office of sheriff. Such construction is consistent with a prior opinion of this Office dated February 4, 1977 which dealt with the question of whether a county council was prohibited from decreasing the salary of an incumbent auditor who was serving an unexpired portion of a previous auditor's term. Specific reference was made in the opinion to a provision in the "home rule" act which states that the salary of an elected official may be increased but may not be reduced during the term for which he is elected. See: Section 4-9-30(7) of the Code. In concluding that the county in the situation addressed was prohibited from decreasing

1/ In light of such specific requirement for you as coroner to assume the office of sheriff, there would be no violation of State Constitutional provisions prohibiting dual office holding. See: Article VI, Section 3 of the State Constitution.

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the particular auditor's salary, the opinion referenced the general rule which states:

... where a change in compensation during the term of an officer is prohibited, a change cannot affect one subsequently appointed to fill the vacancy in an exiting term. 67 C.J.S. Officers, Section 95 (1950).

Therefore, the County would not be authorized to change the salary and benefits of the office of sheriff by withholding such salary and benefits from you during the period in which you assume the office of sheriff.

Of course, in continuing to serve in your original office as coroner, I am unaware of any basis by which the County may withhold the salary and benefits which you typically would have received by serving as coroner even though you are also receiving a salary and other benefits from the County by acting as sheriff. However, it would be a matter for the determination by the County as to exactly what benefits you would receive. For instance, in situations where reimbursement of expenses for the office of sheriff and office of coroner might overlap so as to result in double reimbursement for the same expense, consideration may be given to not making duplicate payments of reimbursement. Also, inasmuch as this is primarily a local matter, you may wish to consult with the county attorney with regard to actual reimbursement and compensation.

If there is anything further, please advise.

Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions

cc: Frank Harrison, Esquire
McCormick County Attorney