

The State of South Carolina

25 58 Library



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-734-3636

December 16, 1986

The Honorable George H. Bailey
Dorchester County Legislative Delegation
Post Office Box 633
St. George, South Carolina 29477

Dear Representative Bailey:

You have requested the advice of this Office as to whether Dorchester County Council has the authority to delete reimbursement for travel and subsistence from the 1986-1987 budget for the Dorchester County Board of Education.

Section 59-1-350 of the Code of Laws of South Carolina (1976), states that members of county boards of education and boards of trustees "...may receive per diem for attendance at board meetings and may be paid mileage to and from such meetings." See, Ops. Atty. Gen., October 5, 1979. The use of the word "may" in this statute indicates that payment of per diem and mileage is not mandatory. Sutherland Statutory Construction, Vol. 2A, §57.03 (4th ed.). Because no local statutes for Dorchester County require that per diem and mileage be paid, the payment of this money to members of the county board would be discretionary under §59-1-350. I have located no provision in the local statutes for Dorchester County school finances that would affect this conclusion, see, Ops. Atty. Gen., September 12, 1986; however, I have not examined the budgetary process for Dorchester County to determine whether this process was properly followed in the deletion of the reimbursement and whether this reimbursement involved money that had already been appropriated. Such matters would involve factual questions that are beyond the province of this Office in the issuance of opinions. Ops. Atty. Gen. (December 12, 1983).

The Honorable George H. Bailey
December 16, 1986
Page Two

In conclusion, the payment of travel and subsistence to county board members is discretionary not mandatory, but the budgetary process decisions concerning this money have not been reviewed to determine whether the deletion of that payment was consistent with that process. Such a review of the process would involve factual questions that are beyond the province of opinions of this Office.

If you have any questions, please let me know.

Yours very truly,



J. Emory Smith, Jr.
Assistant Attorney General

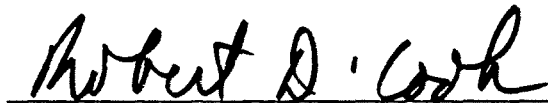
JESjr:st

REVIEWED AND APPROVED:



Frank K. Sloan
Chief Deputy Attorney General

REVIEWED AND APPROVED:



Robert D. Cook
Executive Assistant for Opinions