

add

The State of South Carolina



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Office of the Attorney General

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September 27, 1985

Honorable Mary Jean Grubbs
Allendale County Clerk of Court
P. O. Box 126
Allendale, SC 29810

Dear Ms. Grubbs:

You have requested the opinion of this Office as to whether the Allendale County Council has the authority to reduce the salary budgeted for the Clerk of Court. My understanding from your letter is that County Council reduced the salary for the Clerk's position upon your appointment to fill the vacancy in the office created by the death of your predecessor, Ms. Olanthe L. Ashe.


Section 8-21-300 of the Code of Laws of South Carolina, 1976, as amended, states that the Clerks of Court shall receive salaries fixed by the governing bodies of their respective counties "... which shall not be diminished during their terms of office..." This Office has previously construed a similar provision in the Home Rule Law to prohibit a decrease in the salary of the successor appointed to fill a vacancy in an elective office. Ops. Atty. Gen. (February 4, 1977); See §4-9-30(7) of the Code. This Home Rule provision provides that the salary of elected officials may be increased by the governing bodies of counties, but "... shall not be reduced during the terms for which they are elected..." cf. Article VI, §7, Constitution of South Carolina. Generally, statutes pertaining to the same subject matter should be construed together and reconciled, if possible, so as to render both operative. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970); See also Sutherland Statutory Construction, Volume 2A, §51.02 (4th Ed.). Because both §4-9-70(7) and §8-21-300 use similar language to address the powers of County Councils to set salaries of elected officials, the legislative intent in §8-21-300 appears to be to limit County Councils' authority to reduce the salaries of Clerks of Court in the same manner as it is limited for elected officials generally by §4-9-30(7). Accordingly, County Councils do not appear to have the authority to reduce the salaries of persons appointed to fill vacancies in the Office of Clerk of Court for the remainder of the unexpired terms of office. I have located no authority which would alter this limitation as it applies to Allendale County.

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In conclusion, based upon the information that you have provided in your letter, County Council does not appear to have had the authority to reduce the salary payable to you as the Allendale Clerk this term. If you have any questions, please do not hesitate to contact me.

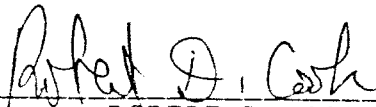
Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESJr/rho

cc: The Honorable Kenneth L. Huckaby
Spartanburg County Clerk of Court
President, Clerks of Court

REVIEWED AND APPROVED:



ROBERT D. COOK
Executive Assistant for Opinions