

1980 WL 121109 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 20, 1980

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Dear Mr. Baker:

In response to your request for an opinion from this Office as to whether or not the Darlington County Council (Council) or the Darlington County Water and Sewer Authority (Authority) is authorized to provide for the compensation of the Authority members, my opinion is that neither body is so authorized.

The Council expressly has no additional authority with respect to special purpose districts situated within Darlington County by virtue of its 'home rule' powers. [§ 4-9-80, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. Moreover, legislation other than the 'home rule' legislation which grants county councils some authority over special purpose districts in some matters does not include the authority to provide for the compensation of members of district governing boards. See, e.g., §§ 6-11-410 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended; [§§ 6-11-810 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended; 59 STAT. 331 (1975); 59 STAT. 1659 (1976). Finally, the authorities apparently agree that:

Compensation is not indispensable to a public office, and the law creating the office . . . , may fail to make any provision for compensation The absence of any provision for compensation carries with it the implication that the services of the incumbent are gratuitous, . . . 63 AM.JUR.2d Public Officers and Employees § 367 at 850.

See also, Id. § 365 at 849 ('. . . the delegation of the function to fix officers' compensation . . . must have clear expression or implication.').

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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