

1980 WL 121170 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 15, 1980

*1 Honorable Lois T. Shealy
Clerk
The House of Representatives
State House
Columbia, South Carolina 29211

Dear Mrs. Shealy:

You have asked the opinion of this Office as to the amount and manner of payment of compensation to members of the House of Representatives who have been elected to fill unexpired terms after a session of the House has begun.

Act 222 of 1979, amending Act 644 of 1978 (the General Appropriations Act), provides in pertinent part:

'Provided, further, that any member who commences serving an unexpired terms after a session begins shall receive the same per diem as other members for each legislative day he serves, not to exceed forty days.'

In our opinion, the clear meaning of this proviso is that members commencing to serve after a session has begun shall receive a compensation (per diem) equal to $\frac{1}{40}$ th of the regular total compensation of members for each legislative day they serve, not to exceed a total of 40 days. As you have no means of determining in any case the exact number of legislative days a new member will serve, they clearly may not be paid on the three-fourths/one-fourth basis provided in Act 222 for members elected for full terms. Accordingly, such new members should be paid the per diem for each legislative day actually served, not to exceed 40 days.

You have advised that your office usually pays travel and other expenses to members each two (2) weeks, and there would be no restriction on your payment of the per diem to new members for each legislative day served at the same time. Then, when the session ends, the final balance of per diem, travel and other expenses due to the new members should be paid.

If you have any further question, please do not hesitate to call.

Cordially,

Frank K. Sloan
Deputy Attorney General

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