

1980 WL 120915 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 6, 1980

*1 William T. Putnam
Executive Director
State Budget and Control Board
212 Wade Hampton Office Building
Post Office Box 12444
Columbia, South Carolina 29211

Dear Mr. Putnam:

You have asked the opinion of this Office as to the proper rate of subsistence to be paid to Interim and Standing Committees of the House and Senate in view of the apparently inconsistent provisions of the ninth proviso to Section 3 of the 1980-81 Appropriations Act, and Section 171(D) of the Act.

The ninth proviso to Section 3 provides:

Provided, Further, That the Interim and Standing Committees of the Senate and House of Representatives are authorized to continue the work during the interim to secure such information and investigations as may be assigned to the respective committees. The members of the House of Representatives shall receive no compensation, but when certified by the Chairman of the respective committee shall be paid the regular per diem, mileage and subsistence allowance of \$50.00 per day to be paid from the Approved Accounts of the House of Representatives. The members of the Senate shall receive no compensation, but when certified by the Chairman of the respective committee shall be paid the regular per diem, travel allowance and subsistence allowance of \$50.00 per day to be paid from the Approved Accounts of the Senate.

Section 171(D) provides:

§ 171 D. Members of committees appointed pursuant to Acts and Resolutions of the General Assembly whose membership consists solely of members of the General Assembly or members of the General Assembly and other personnel who are not employees of the State of South Carolina shall be allowed subsistence expenses of \$35 per day while traveling on official business. Members of such committees may opt to receive actual expenses incurred for lodging and actual expenses incurred in the obtaining of meals in lieu of the allowable subsistence expense.

The rules of statutory construction require that all provisions of an act must be construed together, [Adams v. Clarendon School District No. 2](#), 270 S.C. 266, 241 S.E.2d 897 (1978); and in event of irreconcilable conflict the last expression of the legislature must prevail, [Jolly v. Greyhound Corp.](#), 207 S.C. 1, 35 S.E.2d 42 (1945). If possible, the two provisions must be interpreted harmoniously, such that the provisions of Section 171(D) which is the last expression in the Act on the subject is not read of override the proviso to Section 3.

As to Interim and Standing Committees provided by the Rules of the two houses, and their sub-committees, there can be no question that subsistence of \$50 per day provided in Section 3 applies to members for 'work during the interim' (between regular sessions of the General Assembly).

The conflict to be resolved is that between the proviso to Section 3, and Section 171(D) providing subsistence of \$35 per day (or actual expenses, at the committee member's option), for 'members of committees appointed pursuant to Acts and Resolutions of

the General Assembly . . .'. Standing Committees of the two houses are provided by their Rules, while Interim Committees are established by Acts and Resolutions, and often have non-legislator members. In former years the two similar provisions in each Appropriation Act have provided the same subsistence amount; Viz. 1979-80 Act, seventh proviso to Section 3 and Section 135(D), providing \$35 per day in both sections, which also provided for actual cost of subsistence on out-of-state travel.

*2 In prior provisos to Section 3 (the Legislative section) the 'regular' subsistence allowances being the same as in the general section (Section 171(D) for 1980-81), has led to the uniform interpretation that legislator members of Interim and Standing Committees would receive the same mileage and subsistence as other Committee members, which enabled them to receive subsistence above the 'regular' figure for out-of-state or other specified travel. This year the two subsistence figures are different; but the two sections must be read together to carry out the legislative intent. Unless the proviso to Section 3 is read in conjunction with the 'regular' provisions of the Act as to mileage and subsistence, Section 171, the expression of legislative intent is incomplete.

Based upon the prior interpretations given, and the fact that the proviso to Section 3 is incomplete without reference to Section 171, it is the opinion of this Office that the two sections must be read together and the subsistence to be paid to legislative members of committees 'appointed pursuant to Acts and Resolutions' for work during the interim between sessions is \$50 per day, and for all other members of such committees \$35 per day, with the option in all members of such committees to receive, instead of the fixed subsistence figures, 'actual expenses incurred' as provided in Section 171(D). Likewise, all members would receive the mileage allowance in Section 171(I) when using personal automobiles on official travel.

Yours very truly,

Frank K. Sloan
Deputy Attorney General

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