

1977 S.C. Op. Atty. Gen. 109 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-127, 1977 WL 24469

Office of the Attorney General

State of South Carolina

Opinion No. 77-127

April 29, 1977

*1 Mr. Robert D. Floyd
Interim Commissioner
South Carolina Department
of Social Services
Post Office Box 1520
Columbia, South Carolina 29202

Dear Mr. Floyd:

This is in reply to your request of April 22, 1977, for advice as to whether or not the State Department of Social Services may validly pay mileage and per diem to county directors and supervisors to attend the annual meetings of the County Directors and Supervisors Association of the South Carolina Department of Social Services.

As stated in your letter, the county directors and county supervisors of the Department of Social Services have organized into a professional group, and my check in the Office of the Secretary of State shows that they were issued a certificate of incorporation on February 8, 1973, the correct name of the corporation being 'County Directors & Supervisors Association of the South Carolina Department of Social Services'.

I have also reviewed Circular Letter No. 2000 dated April 7, 1976, and Circular Letter No. 2000-A dated June 16, 1976, both of which refer to the allowance of mileage and per diem to the county directors and supervisors for the previously stated purpose. The charter issued is not deemed to be a charter issued to a public or quasi-public corporation, but is a charter issued for a private corporation serving the individuals in their individual capacities, and not in their official capacities.

Section 131, Part I, of Act No. 709 of 1976 (General Appropriations Act) provides in part:

'That all employees of the State of South Carolina or any agency thereof while traveling on the business of the State shall be allowed reimbursement for actual subsistence expenses incurred and paid not to exceed—.

'When an employee of the State shall use his or her personal automobile when traveling on necessary official business, a charge of fourteen cents per mile will be allowed for the use of such automobile, and the employee shall bear the expense of supplies and upkeep thereof.' (Emphasis added).

In the opinion of this Office the corporation known as County Directors and Supervisors of the South Carolina Department of Social Services is a private corporation which was founded by and is composed of private individuals for a private purpose, as distinguished from governmental purposes, and has no political or governmental franchise or duties. The expenditure of public funds for any except public purposes is prohibited by § 6, Art. 10, of the Constitution of South Carolina, 1895. See: 1964–1965 Op. Att'y Gen. 76, Opinion No. 1822.

It is the opinion of this Office that the authorization contained in Circular Letter No. 2000, supra, and 2000-A supra, is in violation of State law, and mileage and per diem reimbursement to the county directors and supervisors to attend meetings of their private organization is impermissible.

Very truly yours,

Raymond G. Halford

*2 Senior Assistant Attorney General

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