

1978 S.C. Op. Atty. Gen. 198 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-172, 1978 WL 22640

Office of the Attorney General

State of South Carolina

Opinion No. 78-172

October 19, 1978

**\*1** The organizational meeting of the House does not constitute a part of the regular sessions of the General assembly nor is it an extra session thereof.

The appropriation for personal services of House Members contained in the General Appropriations Act 1978-79 is for services rendered in the regular session only.

There are no appropriations made for the payment of mileage, compensation or expenses of Members of the House in attendance at the organizational meeting to be held following their election in November 1978.

Honorable Rex L. Carter  
Speaker  
House of Representatives  
Post Office Box 10304, F.S.  
Greenville, South Carolina 29603

Dear Mr. Speaker:

You have requested my opinion concerning the application of an amendment to [Article III, Section 9, of the Constitution of South Carolina](#), ratified on the 15th day of February, 1977, so as to add to [Article III, Section 9](#), the underscored words set forth below:

‘—The first session of the General Assembly elected under this Constitution shall convene in Columbia on the second Tuesday in January in the year 1897 and thereafter annually at the same time and place. Provided, that the House of Representatives shall meet on the first Tuesday following the certification of the election of its Members for not more than three days following the General Election in even-numbered years for the purpose of organizing—. Members of the General Assembly shall not receive any compensation for more than forty days of any one session.’

It is my opinion that the limited organizational session of the House following each General Election is not a part of the regular session of the General Assembly but is a meeting of one body of the General Assembly for the sole purpose of providing for organizational procedures. It is not, therefore, to be included within the limitation of forty days for which compensation for Members is payable.

For the current fiscal year, the General Assembly has appropriated the amount of \$10,000.00 for each Member of the House for personal services. Because of the limitation in the Constitution that payment of compensation may not be made for more than forty days in any one session, the practice has been to divide the total amount appropriated by forty, and this computes to the rate of \$250.00 per day for the Members of the House while attending regular sessions of the General Assembly. A similar appropriation is made for Members of the Senate. In my opinion, this has reference to the payment of compensation when the General Assembly as a body is in session. During the organizational meeting of the House, the General Assembly is not in session, but only the House is in session for limited purposes. The compensation at the rate of \$10,000.00 contemplates payment for services rendered while the General Assembly as a body is in session and not while a single body of the General Assembly is in session outside the period beginning from the convening of the General Assembly until its adjournment *sine die*. Compensation of Members of the House as provided in the

General Appropriations Act 1978–79 cannot, therefore, be utilized for payment of House Members in attendance at organizational meetings.

\*2 There is no question that the General Assembly could have provided for the payment of expenses of its Members in performing duties imposed upon them by law. Nor is there any question but that the organizational meeting to be convened for Members of the House following the commencement of their terms of office on the Monday following their election is a duty imposed upon them by law. There is, however, no provision which the General Assembly has adopted providing for compensation or expenses of Members attending organizational meetings. Consequently, in my opinion, there is no provision by which these Members can be presently compensated.

Whether or not the next General Assembly to convene in January 1979 may make retroactive payment of expenses and/or per diem allowances for the organizational meeting need not now be decided, as that General Assembly has not yet convened.

In summary, it is my opinion:

A. The Members of the House in attendance at organizational meetings following the commencement of their terms of office are not convened in regular or extra sessions of the General Assembly and, therefore, compensation for such meetings is not within the scope of constitutional or statutory authorization for compensation payable to such Members for a regular and extra sessions.

B. There is no constitutional or statutory provision authorizing compensation of Members for the organizational meetings. Pursuant to Scroggie v. Bates, provision may be made for attendance at future meetings but the amounts provided must be considered in the light of the cited decision.

C. No opinion is expressed concerning the question of whether the General Assembly to convene in January 1979 may provide for retroactive payment of compensation or expenses of Members attending the forthcoming organizational meeting.

Very truly yours,

Daniel R. McLeod  
Attorney General

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