

1975 WL 29144 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 17, 1975

*1 Honorable Thomas O. Lawton, Jr.
Allendale County Attorney
Messrs. Lawton & Myrick
Attorneys at Law
Post Office Box 646
Allendale, South Carolina 29810

Dear Tom:

Thank you for your letter of September 17 inquiring if the County Board of Directors may divide the compensation of an individual into salary and expenses.

Apparently, Allendale County still operates under the appropriation made annually by the General Assembly and, in that case, I do not think that they have the authority to divide the allocation of salary. Some years back, a State statute was enacted with respect to compensation of police officers, with the provision that a portion of the compensation be considered as expenses. The object was to obtain a tax break, but in litigation in the Federal Court this plan was invalidated for that purpose.

In my opinion, the allocation of a portion of a salary as expenses cannot validly be done unless this is provided for in the enabling appropriation. For example, appropriations are made to solicitors of amounts for salary and, in addition, they receive a designated amount per month for expenses. This is as far as the statute goes and the salary appropriation in an instance of that nature could not be altered so as to allocate a portion of that salary to expenses.

I am enclosing herewith a memorandum prepared by Mr. Joe Isaacs of this Office, in which I concur.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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