

1975 WL 29319 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 10, 1975

*1 Mr. E. R. Jones
Hospital Administrator
Jasper County General Hospital
P. O. Drawer 400
Ridgeland, South Carolina 29936

Dear Mr. Jones:

You have requested an opinion from this office as to the legality of a city or county council or other board voting the members thereof a salary increase to be effective while they are in office. The general answer to your question is that the legality of such in action depends upon whether or not a particular body possesses the express or necessarily implied authority to set its own salary. See, e.g., 81 C.J.S. States § 58 at 977-8; 1967 OPS.ATTY.GEN. No. 2213 at 7. If such a power is possessed by it, then that body can increase its salary and such a salary increase will become effective while the members who voted thereon still hold office, in the absence of a provision requiring such an increase to become effective after the expiration of the voting members' terms of office.

In the case of the Jasper County Council, however, that body has not been empowered to set its own salary and, therefore, cannot itself effect a salary increase. Such a change would have to be accomplished by way of a statutory amendment enacted by the General Assembly. See, 55 STAT. Act No. 982, at 2371, as amended by Act No. 1191, § 1 at 2713 (1968). Once the provisions of Act No. 283 of 1975, the 'home rule' legislation, become effective, a county council will be able by ordinance to set the salary of its members and will also be able to adjust that salary which then becomes effective only after the next election for members of the council. See, 59 STAT. Act No. 283, § 14-3707 at 703 (1975).

In the case of the Jasper County General Hospital Commission, that body likewise has not been empowered to set a salary for its members and, therefore, cannot itself effect a salary increase. Such a change would have to be accomplished by way of a statutory amendment enacted by the General Assembly. See, 57 STAT. Act No. 784 at 1553 (1971), as amended by 58 STAT. Act No. 694 at 1343 (1973) and 59 STAT. Act No. 401 at 1067 (1975). I am enclosing a copy of those three statutes for your convenience as some question apparently exists as to whether that body has been statutorily designated as a board of directors or as a commission.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

1975 WL 29319 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.