

1973 WL 26855 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 23, 1973

*1 Mr. John L. Reynolds
Deputy Commissioner
Administration
South Carolina Department
of Insurance
2711 Middleburg Drive
Columbia, South Carolina 29204

Dear Mr. Reynolds:

Mr. McLeod has referred to me your letter of August 16, 1973, referring to a recent article in one of the newspapers quoting an opinion of this Office that members of state boards and commissions were not entitled to both salary and per diem. Your question is, of course, directed toward the question of payments to which members of the Insurance Commission are entitled.

I am unable to gather from your letter exactly what your question is. You refer to Section 37-54 of the 1962 Code, which sets forth that members of the Insurance Commission shall receive such compensation per annum as may be provided by the General Assembly. I do not see that this section has been amended. You refer to Section 94 of the 1973-74 General Appropriations Act, which sets the per diem allowance of all boards, commissions and committees at the rate of \$25.00 per day. In view of Section 37-54 and Sections 92 and 94 of the General Appropriations Act, which are the only provisions of law to which your letter refers, I can see no provision for the \$100.00 per year mentioned in your letter.

The opinion of this Office to which the newspaper article refers did nothing more than state that it was an interpretation of the Budget and Control Board that when the board and commission members are provided a salary by law, they will not be entitled to the per diem pay provided by Section 94 of the General Appropriations Act. Under this interpretation, members of the Insurance Commission would be entitled to the Section 94 per diem of \$25.00 per day if no annual salary is otherwise provided by law. It is entirely possible, of course, that I have overlooked the section of the law which authorizes payment to the Insurance Commissioners of the \$100.00 per year salary mentioned in your letter. If such salary is provided by law, the ruling of the Budget and Control Board on the subject would prohibit Commission members from receiving an additional \$25.00 per diem pay. This would have no effect upon the Commissioners receiving subsistence and travel expenses provided by Section 92 of the General Appropriations Act.

Yours very truly,

Joseph C. Coleman
Deputy Attorney General

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