

# The State of South Carolina



## Office of the Attorney General

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February 25, 1987

The Honorable T. Ed Garrison  
Senator, District No. 3  
412 Gressette Building  
Columbia, South Carolina 29202

Dear Senator Garrison:

Following the receipt of your letters dated February 9, and 11, 1987, with enclosures, I have talked with your constituent to determine exactly the questions which were to be addressed concerning the Homeland Park Water District. These questions are:

1. Does the District have the authority to loan \$1.8 million to the City of Anderson, at eight percent interest for twenty years, without a referendum in the District?
2. Does the District have authority to require some, but not all, property owners wishing to be served by the District to annex into the District and become subject to taxation prior to being served by the District? (The emphasis is on equal treatment.)
3. May a commissioner receive pay as a commissioner and at the same time draw a salary as manager of the District?
4. Is it legal for the commissioners to receive \$25.00 per meeting, when an early act of the General Assembly provided for \$5.00 per meeting with a maximum of \$200.00 per year?

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5. Are the Commissioners restricted to forty meetings per year?

Due to the impact which an opinion of this Office as to the first two questions could have upon plans and projects of the District, we are asking for input of the attorney who advises the District. We will await his research and response prior to finalizing our response on these two questions. We will offer some comments as to the final three questions herein.

Question 3

The question of an individual being employed by Homeland Park Water District and also serving as a commissioner of the District has been thoroughly discussed in an opinion of this Office dated January 31, 1984, a copy of which is enclosed herewith, along with copies of the Ethics Commission opinion and portions of the Ethics Act cited in our opinion.

Question 4

By Act No. 275, 1977 Acts and Joint Resolutions, compensation of commission members has been set forth:

Each member shall receive as compensation for all services rendered the sum of seventeen dollars for each meeting attended; provided, however, that no member shall receive more than six hundred dollars in any one year. In addition, members shall be entitled to reimbursement for expenses for food, lodging and mileage at the rate of ten cents per mile incurred in the performance of official business for the district. ...

This provision amended Section 3 of Act No. 1101 of 1950, as amended, which previously provided for compensation of five dollars per meeting, not to exceed two hundred dollars annually.

Section 6-11-91, Code of Laws of South Carolina (1986 Cum. Supp.), provides that

[n]otwithstanding any other provision of law the governing body of any public service district or special purpose district may by

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resolution or ordinance fix or change the compensation or other benefits including insurance benefits for the members of the district governing body. Compensation shall not exceed the amounts authorized for mileage for members of state boards, committees and commissions, insurance benefits shall not exceed those provided for state employees and per diem shall not exceed thirty-five dollars a day.

By virtue of this statute, the Homeland Park commissioners may elect to continue following the terms of Act No. 275 of 1977, or they may adopt another compensation plan in accordance with Section 6-11-91 of the Code, by resolution or ordinance. While the entire compensation and benefit package has not been described to this Office, the twenty-five dollar per diem mentioned to us is under the maximum established by Section 6-11-91. Whether this per diem amount was adopted by ordinance or resolution is not known to this Office. See Op. Atty. Gen. dated January 23, 1985, enclosed.

#### Question 5

The question of the maximum permissible number of meetings per year has been raised. We have been unable to locate any statute or other act of the General Assembly which puts a limit on the number of meetings to be held in a year's time.

We assume that your constituent arrived at a limit of forty meetings per year by dividing two hundred dollars annual compensation by five dollars per meeting. While Act No. 1101 of 1950, as amended, limited compensation of members, it did not limit the number of meetings. If more than forty meetings were held, under that act, then commissioners would not have been compensated for those meetings in excess of forty.

Because Act No. 275 of 1977 is now in effect, the same argument could be extended to this Act by dividing six hundred dollars by seventeen dollars per meeting. Thus, the commissioners would be limited to 35.29 meetings per year if this argument were to be adopted, an unlikely intention on the part of the General Assembly. No limitation on the number of meetings appears in either Act No. 275 of 1977 or in Section 6-11-91 of the Code. Thus, we would conclude that the District commissioners are not limited to forty meetings per year.

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We trust that the foregoing and the enclosed materials will satisfactorily respond to the last three questions. When we have received a memorandum of law from the District's attorney, we will proceed with an appropriate response to the first two questions.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

*Robert D. Cook*

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cc: Michael F. Mullinax, Esquire  
Mr. Lucky Evans