



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

October 8, 1997

Scott Elliott, Esquire  
Post Office Box 1960  
Columbia, South Carolina 29202

Re: Informal Opinion

Dear Mr. Elliott:

Your recent opinion request has been forwarded to me for reply. You represent the East Richland County Public Service District and ask for this opinion on that body's behalf. You have asked whether the District may increase or expand the compensation package for members of its governing body.

The section of the South Carolina Code of Laws relevant to your question is Section 6-11-91 (as amended). This Section provides:

The governing body of a public service district or special purpose district by resolution or ordinance may fix or change the compensation or other benefits, including insurance benefits and per diem for the members of the district governing body. Reimbursable expenses actually incurred while on official business may not exceed the amounts authorized for members of state boards, committees, and commissions, and insurance benefits shall not exceed those provided for state employees.

Unfortunately, this Office has not had the opportunity to examine Section 6-11-91 since its amendment in 1996. However, on several occasions, this Office has analyzed Section 6-11-91 as it existed prior to its amendment. Prior to its amendment, Section 6-11-91 read as follows:

Notwithstanding any other provisions of law the governing body of any public service district or special purpose district may by resolution or ordinance fix or change the compensation or other benefits including insurance benefits for the members of the district governing body.

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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.

In an opinion dated June 8, 1990, Section 6-11-91 was examined. This opinion concluded that Section 6-11-91 permitted the governing body of a public service or special purpose district to fix or change the compensation or benefits provided for the members of the district's governing body. Under Section 6-11-92, a district was given the option to continue to operate under the compensation or benefit plan that was in existence on the effective date (June 16, 1980) of Sections 6-11-91 through 6-11-93 if so desired. In an earlier opinion, this Office interpreted the provisions of Section 6-11-91 so as to provide that members of the governing body of a public service or special purpose district were permitted to receive a per diem not to exceed \$35 per day. Op. Atty. Gen. dated February 18, 1981. Further, the members were permitted to receive mileage for performance of official business at a rate not to exceed the amounts currently authorized for State boards and commissions. Id. Finally, the members were permitted to receive insurance benefits not to exceed those currently provided for State employees. Id.

The amended version of Section 6-11-91 contains several changes from its predecessor, none of which alter the conclusion reached by this Office in interpreting the former version of the statute which found that the governing body of a public service or special purpose district was permitted to fix or change the compensation or other benefits of the members of the district's governing body. However, the amended version of Section 6-11-91 does change the receipt of per diem and actual expenses by members of the district's governing body. Under the amended version of the statute, the members of the governing body are permitted to set the amount of the per diem and are not limited to a per diem of \$35.00 per day as they were under the former version of the statute. In addition, under the amended version of the statute, the members of the governing body are permitted to receive reimbursement of those expenses actually incurred by the members while on official business, subject to the limitations imposed for members of State boards, committees, and commissions. Finally, the amended version, like its predecessor, provides that insurance benefits shall not exceed those provided for State employees.

To summarize the foregoing, the amended version of Section 6-11-91 permits the governing body of the East Richland County Public Service District to fix or change its compensation. However, unlike the former version of the statute, the per diem of the members of the governing body is not limited to \$35.00 a day. Further, the members of the governing body may also be reimbursed for those expenses actually incurred while on

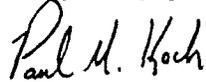
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official business in an amount not to exceed the amounts authorized for members of State boards, committees, and commissions. Finally, the insurance benefits provided to the members of the governing body may not exceed those provided for State employees.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General