

The State of South Carolina



Office of the Attorney General

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November 23, 1987

Thomas M. Boulware, Esquire
Barnwell County Attorney
Post Office Box 248
Barnwell, South Carolina 29812

Dear Mr. Boulware:

By your letter of October 21, 1987, you have asked for the opinion of this Office as to the applicability of Section 4-11-60 of the Code of Laws of South Carolina (1976, as revised) to members of a county council who receive only salaries and reimbursement for actual expenses incurred in the performance of official duties.

Section 4-11-60 of the Code provides:

Each county officer shall be required to purchase and keep in his office, open to public inspection during office hours, a book in which shall be kept an itemized account of all moneys received by or due him, whether received by him or due to him as salary, fees or costs or in any other manner, as pay for him for his services by virtue of his office; provided, that nothing herein contained shall be construed to require any officer to demand the payment of his fees and costs in advance. Any county officer neglecting or refusing to comply with any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than two hundred dollars or imprisoned in the county jail not less than two nor more than six months, either or both at the discretion of the court.

The specific language requires "each county officer" to keep the required records. A member of a county council has been deemed to be a county officer. Op. Atty. Gen. dated August 8, 1984,

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enclosed (page 9). The term "each" is defined as referring "to every one of the persons or things mentioned." Black's Law Dictionary 455 (5th Ed. 1979). Thus, the broad language of Section 4-11-60 appears to make the statute applicable to members of a county council.

The fact that county council members do not receive funds from the public as would, for example, the clerk of court, would not prevent the applicability of Section 4-11-60 to county council members. The language requires an itemized account to be kept "of all monies received by or due him, whether received by him or due to him as salary, fees or costs or in any other manner, as pay for him for his services by virtue of his office... ." The legislature contemplated that records be kept of salaries received by county officers as pay for their services by virtue of their holding office, or of any other monies received by them.

You have advised that a separate ledger sheet is kept by the County on each of the council members which shows each disbursement of salary and expense moneys to each council member. You have indicated your belief that such a system of separately accounting for each individual's receipt of salary and expenses would meet the requirements of Section 4-11-60, supra. Since county council members do not receive funds from the public in the course of their duties as would, for example, a clerk of court or judge of probate, such a system of accounting kept at the official "headquarters" of council members (office of the clerk to council, perhaps) and available for public inspection, would meet the requirements of Section 4-11-60 of the Code.

In conclusion, it is the opinion of this Office that the requirements of Section 4-11-60 of the Code would be applicable to members of a county council.

With kindest regards, I am

Sincerely,

Patricia A. Petway

Patricia D. Petway
Assistant Attorney General

PDP/rhm
Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions