

The State of South Carolina

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Office of the Attorney General

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June 15, 1987

Jeffrey B. Moore, Executive Director  
South Carolina Sheriffs' Association  
421 Zimalcrest Drive, Suite 310  
Columbia, South Carolina 29210

Dear Jeff:

In a letter to this Office you referenced the provisions of the 1987-88 Appropriations Act which states in part:

(o)f the amount appropriated in this section for Clerks of Court, Probate Judges, and County Sheriffs, \$4,725 shall be distributed by the Comptroller General to each County Treasurer, which shall be used as a \$1,575 salary supplement for each Clerk of Court, Probate Judge and County Sheriff. It is the intent of the General Assembly that the amount appropriated for such salary supplements shall include both salary and related employer contributions and such amounts shall be in addition to any amounts presently being provided by the county for these positions ... Any reduction by any county in the salary of the Clerks of Court, the Probate Judges, Registers of Mesne Conveyances and County Sheriffs or any other reduction of expenditures in the office of the Clerks of Court, Probate Judges, Registers of Mesne Conveyances and County Sheriffs shall result in a corresponding decrease of funds provided to that county by the State. Payment

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shall be made to each County Treasurer in a single lump sum at the beginning of the fiscal year and payment shall be made to the Clerks of Court, Probate Judges and County Sheriffs by the County Treasurer over a twelve month period in the same manner as county salaries are paid ... It is the intent of the General Assembly that the amount appropriated by the county for these positions shall not be reduced as a result of the appropriation....

Referencing such provision you have asked whether the General Assembly intended for the \$1575.00 salary supplement to be paid to a sheriff.

Generally, where terms of a statute are clear and unambiguous, such terms must be given their literal meaning. Martin v. Ellisor, 266 S.C. 377, 223 S.E.2d 415 (1976); Mitchell v. Mitchell, 266 S.C. 196, 222 S.E.2d 499 (1976). Additionally, where the intention of a governing body is so apparent from the language of a statute that there is no question as to its meaning, there is no room for construction. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970); 2A Sutherland Statutory Construction, Section 46.01 and 46.02 (4th Ed.).

In a previous opinion of this Office dated July 24, 1980 an almost identical provision in the 1980 Appropriations Act which provided a \$1500.00 supplement for sheriffs was construed. The opinion stated that the then \$1500.00 salary supplement for sheriffs "... may not be 'included' as a part of across-the-board or other general salary increases which the counties provide for county employees. The legislative intent declared ... is unequivocal that the \$1500.00 supplement ... is to be above and beyond the compensation they would otherwise receive." See also: Opinion of the Att'y. Gen. dated September 5, 1979. Similarly, it is clear from the language of the proviso in Act No. 540 that the General Assembly intended that the \$1575.00 salary supplement be paid to each sheriff.

In your second question concerning the same provision, you asked whether a county has the authority to withhold at their discretion the supplement from a sheriff, reduce the sheriff's salary by \$1575.00, and then include the supplement as part of

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the sheriff's salary. As expressly stated in the proviso, the salary supplement is to be in addition to any amounts paid by a county to its sheriff. Therefore, consistent with the response to your first question, a county is not authorized to reduce a sheriff's salary by the amount of the State supplement and then include the supplement as a part of the sheriff's salary. Moreover, as referenced above, any reduction by a county in the salary of a sheriff "... shall result in a corresponding decrease of funds provided to that county by the State."

You also asked whether counties "may be forced" to providing such State salary supplement to its sheriff. The September 5, 1979 opinion referenced above further provides that

a county may not refuse to accept the appropriations. They are obligated by law to carry out the mandates of the General Assembly which are constitutionally enacted.

If there is anything further, please advise.

Sincerely,



Charles H. Richardson  
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions