

1980 WL 120791 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 24, 1980

*1 The Honorable Earle E. Morris, Jr.
Comptroller General
Wade Hampton Office Building
Columbia, South Carolina 29211

Dear Mr. Morris:

You have requested the opinion of this Office as to proper application of salary increases appropriated by the General Assembly for certain county officers, and how such increases should be treated in determining proper compensation for these officers when considering across-the-board salary increases which counties have made for all employees. We have received a number of opinion requests also from various county officers who are affected, and we shall attempt to make a comprehensive response in this opinion.

The applicable provisos from the 1980 Appropriations Act, which resulted in \$1,500 state appropriated increases for County Auditors, Treasurers, Clerks of Court Probate Judges, and Sheriffs are as follows:

Provided, Further, That for the fiscal year 1980-81, the State shall pay \$9,914.00 [includes \$1,500 increase] on the salary of each County Auditor and County Treasurer in addition to any amounts presently being provided by the county for those positions. Provided, Further, That 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 and that such appropriation shall not disqualify each County Auditor and each County Treasurer for salary increases that they might otherwise receive from county funds in the future. Any reduction by any county in the salary of the County Auditor or County Treasurer shall result in a corresponding decrease of funds provided to that county by the State.

Provided, Further, That of the amount appropriated in this Section for Clerks of Court, \$1,500 shall be distributed to each County Treasurer, which shall be used as a salary supplement to each Clerk of Court. Payment shall be made to each County Treasurer in a single lump sum at the beginning of the fiscal year.

Provided, Further, That of the amount appropriated in this Section for Probate Judges, \$1,500 shall be distributed to each County Treasurer, which shall be used as a salary supplement to each Probate Judge. Payment shall be made to each County Treasurer in a single lump sum at the beginning of the fiscal year.

Provided, Further, That of the amount appropriated in this section for County Sheriffs, \$1,500 shall be distributed to each county treasurer which shall be used as a salary supplement to each county sheriff. Payment shall be made to each county treasurer in a single lump sum at the beginning of the fiscal year.

Provided, Further, That it is the intent of the General Assembly that the amounts appropriated in this Section for Clerk of Court, Probate Judges and County Sheriffs shall be in addition to any amounts presently being provided by the county for these positions and any reduction by any county in the salary of the Clerks of Court, the Probate Judges and County Sheriffs or any other reduction of expenditures in the office of the Clerks of Court and County Sheriffs shall result in a corresponding decrease of funds provided to that county by the State.

*2 Provided, Further, That it is the intent of the General Assembly that the amount appropriated in this section for salary supplements for Clerks of Court, Probate Judges, and County Sheriffs shall include both salary and related employer contributions.

As to salary supplements for Clerks of Court and Probate Judges, the above-quoted proviso is to the same effect as the similar proviso in the 1979 Appropriations Act. The opinion of this Office to you, dated September 5, 1979, copy attached, continues to be valid as to the questions therein considered, except for the final proviso above, which is a new addition. Under the 1979 Act the employer's contributions for social security and other fringe benefits was the obligation of the county. Under the present act both employee and employer contributions applicable to the \$1,500 salary supplement for Clerks of Court, Probate Judges, and County Sheriffs are to be deducted from the \$1,500 amount.

As to salary supplements for County Auditors and County Treasurers, there is no similar proviso because the General Assembly has made appropriations for the employer contributions applicable to the State-paid part of their salaries.

In reply to your principal question, it is the opinion of this Office that the \$1,500 salary supplements 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 in the above provisos is unequivocal that the \$1,500 supplement for all of the above-named county officers is to be above and beyond the compensation they would otherwise receive. Citing the example given in your letter, if the county grants a general 8% increase for its employees, that increase is applicable to the above-named county officers without reference to the \$1,500 supplement. If the general county increase would have had the effect of increasing a given salary from \$20,000 to \$21,600; then the \$1,500 would be added, such that the actual salary would be \$23,100.

Finally, as stated in the opinion of September 5, 1979, even though these supplements are paid in a lump sum to the County Treasurer for disbursement, they should be paid in increments as a part of the regular salary payments to the officers concerned, not in a lump sum.

Deputy Attorney General Joe L. Allen, Jr., at the Tax Commission, concurs in this opinion.

Very truly yours,

Frank K. Sloan
Deputy Attorney General

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