

1977 WL 37258 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 2, 1977

**\*1 RE: Migrant Farm Workers Commission**

Honorable Edgar L. McGowan  
Commissioner  
S. C. Department of Labor  
P. O. Box 11329  
Columbia, South Carolina 29211

Dear Commissioner McGowan:

You have requested an opinion from this Office as to whether the Department of Labor may pay per diem, subsistence, and mileage to the members of the Migrant Farm Workers Commission who are not State employees.

Act No. 1534 of 1972 created and provided for the powers and duties of the Migrant Farm Workers Commission. These provisions of law were codified as Sections 40-411 through 40-414, Code of Laws of South Carolina (1962), as amended. Code Section 40-413 provides as follows:

The Commission shall elect a chairman and such other officers as it deems necessary. Commission meetings shall be held at least once in each quarter and at such other times as may be necessary upon the call of the chairman. Members shall not receive compensation, per diem, mileage or subsistence. [Emphasis Added].

Act No. 593 of 1976 created the Migrant Labor Division within the Department of Labor and made certain amendments to Act No. 1534 of 1972. However, the above-quoted Code Section which expressly prohibits payment of per diem, mileage or subsistence to the members of the Commission was not changed.

You have inquired whether this express prohibition was suspended for the fiscal year 1976-1977 by certain provisions of the Appropriations Act (Act 709 of 1976). Section 131 provides in part:

... Members of the State Boards, Commissions, or Committees, whose duties are not full time, and who are paid on a per diem basis, shall be allowed reimbursement for actual expenses incurred at the general daily rates provided for in this section while away from their places of residence on official business of the State. [Emphasis Added].

Section 132 provides:

That the per diem allowance of all boards, commissions and committees shall be at the rate of Twenty-five (\$25.00) Dollars per day. Provided, that no full-time officer or employee of the State shall draw any per diem allowance for service on such boards, commissions or committees.

At the end of the Appropriations Act (See Page 2161 of the 1976 Acts and Joint Resolutions), may be found the following provision:

All Acts or parts of Acts inconsistent with any of the provisions of Part I of this Act [in which Sections 131 and 132 are included] are hereby suspended for the fiscal year 1976-77.

In our opinion, the provisions of Code Section 40-413 were not suspended by these provisions of the Appropriations Act.

The primary rule of statutory construction is to ascertain and give effect to the intention of the Legislature. [Lewis v. Gaddy](#), 254 S.C. 66, 173 S.E.2d 376 (1970). Also, where two statutes are in apparent conflict, they should be construed, if reasonably possible, as to give force and effect to each. [Stone & Clamp v. Holmes](#), 217 S.C. 203, 60 S.E.2d 231 (1950).

\*2 Ordinarily, a general repealing clause of inconsistent acts does not, when contained in a general act, operate to repeal a special law, and it is generally held that statutes of a specific nature are not to be considered as repealed in whole or in part by a later, general statute unless there is a direct reference to the former statute, or the intent of the Legislature is explicitly implied therein. [State v. Harrelson](#), 211 S.C. 11, 43 S.E.2d 593; 82 C.J.S. Statutes § 285.

Therefore, it is the opinion of this Office that the members of the Migrant Farm Workers Commission are not entitled to receive compensation, per diem, mileage or subsistence.

Very truly yours,

Wade S. Kolb, Jr.  
Assistant Attorney General

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