

1980 WL 120813 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 11, 1980

**\*1 RE: Richland-Lexington Airport Commission**

Eugene F. Rogers, Esquire  
Post Office Box 58  
Columbia, South Carolina 29202

Dear Mr. Rogers:

You have asked what effect, if any, an Act passed by the 1980 General Assembly, R.640, H.2725, will have on Section 55-11-320 of the Code of Laws of South Carolina, 1976. Section 55-11-320 states in pertinent part:

The members of the Commission shall serve without compensation except for their actual and necessary expenses while in performance of duties prescribed under this article.

Thus, prior to the 1980 Act, Commission members were limited to their actual and necessary expenses incurred while performing their official duties.

The 1980 Act states:

Notwithstanding any other provision 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.

The Act goes on to state that per diem shall not exceed thirty-five dollars a day.

'Notwithstanding' commonly means 'in spite of.' Vol. 28-A, Words and Phrases at 576. Hence, the 1980 Act is in spite of any other provision of law, including Section 55-11-320, and would be applicable to the Airport Commission. 'Per diem' has been defined when used in connection with compensation as pay for a day's services. Scroggie v. Scarborough, 162 S.C. 218, 160 S.E. 596. Assuming the Airport Commission takes the appropriate action, its members would be entitled to a per diem not to exceed thirty-five (\$35.00) dollars per day, mileage not to exceed the amounts authorized for state boards, and their reasonable and necessary expenses incurred while conducting commission business.

Sincerely,

James W. Johnson, Jr.  
Assistant Attorney General

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