

1979 WL 42992 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 14, 1979

*1 Mr. Robert E. Barker
Executive Director
Georgetown County Water and Sewer District
Post Office Drawer E
Georgetown, South Carolina 29440

Dear Mr. Barker:

You have requested an opinion from this Office as to what expenditures of Georgetown Water and Sewer District members may be reimbursed from District funds and how the reimbursements should be made. In my opinion, District members may be reimbursed only for and in the exact amount of actual expenditures necessarily incurred by them in the performance of their official duty.

Section 2 of Act No. 733 of 1967 [55 STAT. 1539 (1967)] provides in relevant part:

The members of the district shall receive no compensation, but shall be reimbursed for any actual expenses incurred in connection with the business of the district.

In general, the test of whether or not a given expenditure is incurred 'in connection with the business of the district' is whether the welfare of the community served is involved and whether a direct benefit to the public results. Travel expenses such as gasoline and oil costs may or may not be reimbursed depending on the nature of and reason for the travel. [McQUILLEN MUNICIPAL CORP. § 12.190, 62 C.J.S. Municipal Copr. § 535 (1955)]. Expenditures made for meals may be reimbursed only if the meal was a necessary part of a business meeting or, by analogy to Internal Revenue Code Regulations, if the business of the District requires a member to be away from home for more than one day. Treas. Reg. Sec. 1.162.

You have also requested an opinion as to whether or not a per diem rate would be an acceptable method of reimbursement. In my opinion, it would not, since a per diem rate does not constitute reimbursement for actual expenditures only, and might thus overcompensate members in some cases.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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