

1978 WL 34920 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 18, 1978

\*1 The Honorable John E. Miles  
Senator  
Sumter and Clarendon Counties  
602 West Calhoun Street  
Sumter, South Carolina 29150

Dear Senator Miles:

This is in reply to your letter of May 9, 1978. You have requested an opinion as to whether it is permissible under the Home Rule Act for the Sumter County Council to pay each member of the county legislative delegation a fixed sum for certain expenses in lieu of maintaining a county delegation office. It is the opinion of this office that the procedure described above is not permissible under the Home Rule Act.

The Home Rule Act provides, in part, that 'county council shall provide office space and appropriations for the operation of the county legislative delegation office including compensation for staff personnel and necessary office supplies and equipment.' § 3, 1975 Act No. 283 (1975 [59] 692). This act requires the county council to provide office space, and make appropriations for its operation. The statutory wording 'shall provide office space. . . .' suggests a mandatory intent by the legislature that there be an office. 1A SUTHERLAND'S STATUTORY CONSTRUCTION § 24.04, p. 301 (1972). An alternative expense allowance for the members of the county delegation to maintain separate offices or to perform individual administrative functions would not satisfy the requirement that the county council 'shall provide office space. . . .' Such an office would not exist under the plan being considered. For the above reasons, it is the opinion of this office that the plan proposed in your letter is not permissible under the Home Rule Act.

Sincerely yours,

David C. Eckstrom  
Staff Attorney

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