

1978 S.C. Op. Atty. Gen. 241 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-209, 1978 WL 22677

Office of the Attorney General

State of South Carolina

Opinion No. 78-209

December 18, 1978

*1 Monies appropriated for 'Approved Accounts', House of Representatives, 1978-79, may be withdrawn on Resolution of the House for payment of subsistence and mileage at an organizational session.

The Honorable Rex L. Carter
Speaker
House of Representatives
Post Office Box 10304, F.S.
Greenville, South Carolina 29603

Dear Mr. Speaker:

By letter dated November 29, 1978, Honorable Lois T. Shealey, Clerk of the House of Representatives, forwarded to me a copy of H.R. 2011 and requested my opinion as to whether the payments authorized by the Resolution could be made. H.R. 2011 reads:

'Be it resolved by the House of Representatives:

'That each member thereof shall receive the usual subsistence and mileage provided by law for each day's attendance at the organization session of the House of Representatives held in November, 1978, payable from approved accounts of the House.'

The House has thus directed that its Members be paid the usual subsistence (\$35.00 per day) and mileage (16 cents) per mile for attendance at the organizational session and has directed that the payment for the services be made from the appropriation provided in the General Appropriations Act (Section 3, Item II, Subsection 1):

'Contingencies

Approved Accounts.....\$175,000.00'

In a prior opinion dated October 19, 1978, I advised that Members of the House were not entitled to be paid compensation for attendance at the organizational session from the salaries provided in the General Appropriations Act for Members of the House, and that there were no constitutional or statutory provisions for compensation or expenses of such Members. Since the prior opinion, H.R. 2011 has been adopted and the effect of this measure is herein considered.

There are certain specific payments authorized to be made from the appropriations for Approved Accounts of the House. These are generally set forth in the provisos following the appropriation for the House and the Senate in the General Appropriations Act, although they may be the subject of a permanent statute. See, e.g., [Section 2-35-30, Code of Laws, 1976](#). There is not, however, a specific authorization for payment of subsistence and mileage of Members of the House in attendance at the organizational meeting unless it is considered that H.R. 2011 gives such authority. It is my opinion that the Resolution does authorize payment of subsistence and mileage to the Members.

It is my opinion that the General Assembly, in authorizing expenditures to be made from the appropriations designated 'Approved Accounts' for the House of Representatives, intended that the entire body could, by Resolution, direct that payment for its Members for subsistence and mileage be made from this appropriation, especially when the subsistence and mileage were incurred as a result of their constitutionally mandated attendance at an organizational meeting. This conclusion is reinforced by previous action which the House took in almost identical circumstances in directing that payment to be made to the Members who attended an organizational meeting in 1971. Expenditures from Approved Accounts are required to be audited by the State Auditor annually and no question was raised by the State Auditor at that time regarding the expenditure. The applicable law as contained in the provisos referred to herein has continued the same in subsequent years.

*2 While I must point out that a contrary conclusion may reasonably be argued, I am of the opinion that H.R. 2011 is a valid basis for payment of subsistence and mileage for attendance at the 1978 organizational meeting of the House.

Very truly yours,

Daniel R. McLeod
Attorney General

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