

1976 WL 30531 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 24, 1976

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P. O. Box 578
Charleston, South Carolina 29402

Dear Senator:

You have requested an opinion from this Office as to whether or not the South Carolina Public Railways Commission (Commission) is subject to those provisions of the General Appropriations Act which pertain to the allowable compensation and expenses of state boards, commissions and committees. In my opinion, it is.

The pertinent provisions of the 1975-76 General Appropriations Act [59 STAT. 333 (1975)] are as follows:

Section 103. That all employees of the State of South Carolina or any agency thereof while traveling on the business of the State shall be allowed reimbursement for actual expenses incurred and paid not to exceed \$20.00 per day while traveling in the State and \$25.00 per day while traveling outside the State, . . .

Whenever officials or employees of the State are required, in the performance of their official duties, to travel to urban areas of two hundred fifty thousand (250,000), or greater population, such official or employee shall be allowed reimbursement for actual expenses incurred not to exceed \$30.00 per day.

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.

When an employee of the State shall use his or her personal automobile in traveling on necessary official business, a charge of fourteen cents per mile will be allowed for the use of such automobile, and the employee shall bear the expense of supplies and upkeep thereof.

Section 105. 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.

All Acts or parts of Acts inconsistent with any of the provisions of Part I of this Act are hereby suspended for the fiscal year 1975-76.

Similar provisions appear in the 1976-77 General Appropriations Act. See, Act No. 709 of 1976, §§ 131 and 132.

The Commission's powers and duties are set forth in Section 9-373 of the South Carolina Code of Laws, 1962, as amended (Cum. Supp.). Nowhere in that legislation is the Commission granted the authority to set the compensation of its members (cf., § 9-373(6), empowering the Commission to fix and pay the compensation of its employees); indeed, even if it did so empower the Commission, the language in the General Appropriations Act suspending for the fiscal year 1976-77 all acts inconsistent therewith would undoubtedly supersede any such authority, if conflicting. Therefore, while the Commission cannot set rates of compensation or of mileage reimbursement different from those specified by the General Appropriations Act as hereinabove set forth, it could, nonetheless, compensate its chairman \$100.00 per month if the chairman is engaged in Commission business four days per month and it could compensate the other members \$50.00 per month if they are engaged in Commission business two days per month.

With kind regards,

*2 Karen LeCraft Henderson
Assistant Attorney General

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