

SUBJECT: COUNTY'S PAYMENT OF A MONTHLY STIPEND TO HIGHWAY PATROLMEN AND WILDLIFE OFFICERS STATIONED IN THE COUNTY.

SUMMARY:

Marion County is advised to discontinue its practice of paying highway patrolmen and wildlife officers stationed in the County \$15.00 per month for the purpose of defraying telephone expenses.

QUESTION:

The Marion County Attorney requests an opinion regarding a practice in which the County has engaged for several years. South Carolina Highway Patrolmen and Wildlife Conservation Officers stationed in Marion County presently receive \$15.00 per month from Marion County in order to defray their telephone expenses.

DISCUSSION:

This opinion is rendered in response to a letter dated September 28, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics Government Accountability and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-705 of the Ethics Reform Act prohibits both the offer to, or receipt by, a public employee of anything of value in return for being influenced in the discharge of his official responsibilities. Section 8-13-705 provides in part as follows:

(A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

- (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
- (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
- (3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

- (1) influenced in the discharge of his official responsibilities;

- (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
- (3) induced to perform or fail to perform an act in violation of his official responsibilities.

The State Ethics Commission does not believe that the provision of this monthly stipend is being given to influence these public employees in their official activities. However, since this allowance involves the payment and receipt of money, the Commission calls attention to Section 8-13-720, which provides:

No person may offer or pay to a public official, public member, or public employee and no public official, public member, or public employee may solicit or receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

Additionally, Marion County may wish to consider the provisions of the 1992-93 General Appropriations Act pertaining to the salaries paid to State employees.

Based on the facts presented, the only reason these highway patrolmen and wildlife conservation officers are receiving the monthly stipend in question is because they have been stationed in Marion County in the course of their public employment. Accordingly, the State Ethics Commission advises Marion County to discontinue its practice of providing compensation to public employees in addition to that received in their official capacity and in the course of their public employment.