

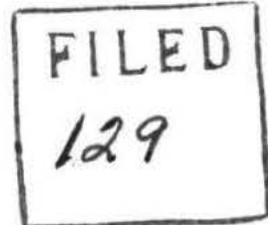
LEGISLATORS:
COMPENSATION:

Members of the State House of Representatives who take office after the beginning of a legislative term should have their first monthly salary prorated unless they take office on the first day of the month.

OPINION NO. 129

May 25, 1977

Honorable Fred DeField
State Representative, District 160
Room 401, Capitol Building
Jefferson City, Missouri 65101



Dear Representative DeField:

This opinion is in response to your question asking:

"When a member of the House of Representatives enters office at a time other than at the beginning of the legislative term, should the amount of his salary for the first month be one-twelfth of the annual salary; if not, on what basis--daily or weekly--should his salary for the first month be prorated?"

You also state:

"Some of the members of the House of Representatives were elected at special elections and did not enter office at the beginning of the legislative term. A few representatives took their oaths and entered office during the middle of the month.

"The question has now arisen under [Section] 21.140, RSMo Cumm. Supp., 1975 should these representatives receive compensation for the full month, or, a prorated amount?"

Section 21.140, RSMo Supp. 1975, provides as follows:

"Senators and representatives shall receive from the treasury as salary the sum of eight

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thousand four hundred dollars per year. Upon certification by the president and secretary of the senate and by the speaker and clerk of the house of representatives as to the respective members thereof, the commissioner of administration shall audit and the state treasurer shall pay such compensation in equal monthly payments. Senators and representatives shall receive, weekly, a mileage allowance as provided by law for state employees, in going to their place of meeting in Jefferson City from their place of residence, and returning from their place of meeting in Jefferson City to their place of residence while the legislature is in session, on the most usual route, if the senator or representative does travel to Jefferson City during that week."

In our Opinion No. 121-A, dated February 3, 1969 to Godfrey, we interpreted the questioned provision to mean generally that senators and representatives would receive their salary in equal monthly installments. We believe that provision for the payment of compensation in the equal monthly installments, which is contained in the above section, does not apply to a representative who took the oath of office and assumed his duties during the middle of the month. The phraseology which was employed was obviously only intended to apply to legislators who served the entire month. In our view it should not be interpreted to require a month's payment for a legislator who served less than a full month. A contrary interpretation would mean that an outgoing legislator and an incoming legislator, both of whom served a part of a month, would each be paid for the full month. We are convinced that such interpretation was not intended.

We are also enclosing our Opinion No. 93, dated May 13, 1963 to Ellis, in which this office held that the salary of a circuit clerk/recorder is to be paid according to the time served by the incoming and the outgoing officeholders, so that the officeholders are paid for the exact time in office, no more and no less.

This means then, that such representatives receive compensation on a prorated basis and not for a full month.

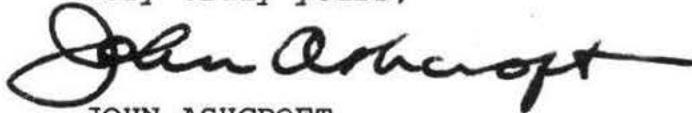
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CONCLUSION

It is the opinion of this office that members of the State House of Representatives who take office after the beginning of a legislative term should have their first monthly salary prorated unless they take office on the first day of the month.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,



JOHN ASHCROFT
Attorney General

Enclosures: Op. No. 121-A
2/3/69, Godfrey

Op. Ltr. No. 93
5/13/63, Ellis