

28 October 1976

Subject: Municipalities; Budget Amendments; Salary of Board Members and Other Elected Officers May Not be Increased by Budget Amendment.

Requested by: W. Earl Britt
Town Attorney
Fairmont, N. C.

Question: May the compensation of the mayor and members of the Town Board be increased by budget amendment pursuant to G.S. 160A-64, 159-15?

Conclusion: No.

G.S. 160A-64 provides: "The Council may fix its own compensation and the compensation of the mayor and any other elected officers of the city *by publication in and adoption of the annual budget ordinance*...." (Emphasis supplied.)

G.S. 159-15 provides, in part: "Except as otherwise restricted by law, the governing board may amend the budget ordinance at any time after the ordinance's adoption...."

We construe G.S. 160A-64 as placing a restriction on the governing body, to-wit, the compensation can only be fixed by publication in and adoption of the *annual budget ordinance*, as provided in Chapter 159 of the General Statutes, the Local Government Budget and Fiscal Control Act, which requires the budget to be adopted not later than July 1 of each year. We conclude that the intent of G.S. 160A-64 is to preclude the governing body from increasing its compensation during the budget year by amendment to the budget ordinance, and that such increase may be made only upon the adoption of the annual budget ordinance.

Rufus L. Edmisten, Attorney General
James F. Bullock
Senior Deputy Attorney General

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15 December 1972

Subject: Counties; Commissioners; Compensation; Fixing Compensation of County Commissioners Pursuant to G.S. 153-13.

Requested by: Mr. James C. Fox
New Hanover County Attorney.

Question: May the county commissioners amend the county budget to raise or lower their compensation any time during the fiscal year or is their authority to fix such compensation confined to the adoption of the annual budget ordinance?

Conclusion:

G.S. 153-13 confines the commissioners' authority to fix their compensation to the time required by statute for the publication and adoption of the annual budget ordinance.

G.S. 153-48.2(1) provides that the compensation and allowance of the board of county commissioners shall be determined as provided in G.S. 153-13.

G.S. 153-13 provides that the compensation and allowances of the chairmen and commissioners may be fixed by the board of publication in and adoption of the annual budget ordinance. The county fiscal control act provides for the time and adoption of the budget resolution. Thus we conclude that the compensation of the commissioners can only be changed as provided in G.S. 153-13.

Robert Morgan, Attorney General
James F. Bullock,
Deputy Attorney General

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