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PAYMENT OF SALARY OF DECEASED MEMBER OF GENERAL ASSEMBLY FOR REMAINDER OF HIS TERM MAY BE MADE ONLY TO DECEASED MEMBER'S DEPENDENT,—SURVIVING SPOUSE, CHILDREN, MOTHER, OR FATHER, IN THAT ORDER; AND WHERE A MEMBER DIES WITH NO DEPENDENTS, NO FURTHER PAYMENT OF SALARY NEED BE MADE—§101.27, R.C.

SYLLABUS:

Pursuant to Section 101.27, Revised Code, when a member of the General Assembly dies during his term, payment of any unpaid salary under that section may be made only to the deceased member's dependent, surviving spouse, children, mother, or father, in that order; and where a member dies without leaving a dependent, surviving spouse, children, mother, or father, no further payment of salary should be made, the "estate" of such deceased member having no right to any unpaid salary of the member.

Columbus, Ohio, December 11, 1961

The Honorable Carl Guess  
Clerk, Ohio House of Representatives  
State House, Columbus, Ohio

Dear Sir:

Your request for my opinion poses a question as follows:

When a member of the General Assembly dies during his term of office, and he leaves no dependent, surviving spouse, children, mother, or father, what is the disposition of the unpaid balance of salary of such deceased member? Should the amount involved be paid to the estate of said deceased member?

Section 101.27, Revised Code, providing for the compensation of members of the General Assembly, reads, in part, as follows:

"Every member of the senate, except the member elected president pro tempore and the member elected minority leader, shall receive as compensation a salary of five thousand dollars a year during his term of office and every member of the house of representatives, except the member elected speaker, speaker pro tempore and the member elected minority leader, shall receive as compensation a salary of five thousand dollars a year during his term of office. Such salaries shall be paid in the following manner: Six hundred dollars in monthly installments to every

member of the senate and six hundred dollars in monthly installments to every member of the house of representatives during the first session of such term or during the first eight months of such term, whichever is lesser, and the balance in equal monthly installments during the remainder of such term. All monthly payments shall be made on or before the fifth day of each month. Upon the death of any member of the general assembly during his term of office, any unpaid salary due such member for the remainder of his term shall be paid to his dependent, surviving spouse, children, mother, or father, in the order in which the relationship is set forth in this section in monthly installments.

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While the section sets a specific amount as an annual salary, it also specifies how much is to be paid each month. Thus, I am constrained to conclude that a member is paid only for the time that he is a member, and is not automatically entitled to \$10,000 upon being elected and qualifying for office. It follows, therefore, that when a person ceases to be a member, his right to compensation ceases. Likewise, on the death of a member, his estate would have no right to compensation except as provided in Section 101.27, *supra*.

The section does provide that, upon death of the member, any unpaid salary shall be paid to his dependent, surviving spouse, children, mother, or father, in that order; and this specific provision is further evidence that when a member dies his “estate,” as such, has no right to any unpaid salary.

Under the question here concerned the deceased member has no dependent, surviving spouse, children, mother, or father; thus, there is no authority for the payment of any unpaid salary of said deceased member to any one.

In conclusion, therefore, it is my opinion and you are advised that, pursuant to Section 101.27, Revised Code, when a member of the General Assembly dies during his term, payment of any unpaid salary under that section may be made only to the deceased member’s dependent, surviving spouse, children, mother, or father, in that order; and where a member dies without leaving a dependent, surviving spouse, children, mother, or father, no further payment of salary should be made, the “estate” of such deceased member having no right to any unpaid salary of the member.

Respectfully,

MARK McELROY

Attorney General