S T A T E O F T E N N E S S E E
OFFICE OF THE
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May 17, 2000

Opinion No. 00-093

Compensation of Part-Time County Employees While Serving Weekend National Guard Duty

QUESTION

Whether Tennessee Counties are required to compensate part-time county employees for time missed from their part-time county employment while they are serving on weekend National Guard duty.

OPINION

Yes.

ANALYSIS

Tenn. Code Ann. § 8-33-109 (Repl. 1993) grants paid military leave to, *inter alia*, state and county employees, such as ambulance service employees, who are scheduled for county weekend work when they are required to attend weekend National Guard drills pursuant to orders issued by their unit commanders. Subject to the fifteen (15) day maximum under Tenn. Code Ann. § 8-33-109, a county may not legally refuse to provide the pay and benefits an employee would have earned had the employee not been called to participate in weekend National Guard drills.

Tenn. Code Ann. § 8-33-109 provides in pertinent part:

> All officers and employees of this state . . . or of any county, municipality . . . or other political subdivision, and all other public employees of this state who are, or may become, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave or vacation, impairment of efficiency rating, or any other rights or benefits to which [they are] otherwise entitled, for all periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders; . . . The military leave herein provided shall be unaffected by date of employment or length of service and shall have no effect on other leaves provided by law, regulation, policy or practice.

Tenn. Code Ann. § 8-33-109 (Repl. 1993) (emphasis supplied).

In Op. Tenn. Att'y Gen. 98-155 (Aug. 17, 1998), this Office opined that weekend training is within the statutory terms of Tenn. Code Ann. § 8-33-109, which applies to "military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders." *Id.* An employee who is scheduled to work a weekend shift is entitled to military leave under section 8-33-109 when ordered to participate in a weekend drill with the National Guard.

Legislative intent or purpose is ascertained primarily from the natural and ordinary meaning of the language used. If the statute is unambiguous, courts enforce the statute as written. *Carson Creek Vacation Resorts, Inc. v. State*, 865 S.W.2d 1, 2 (Tenn. 1993). The statutory construction should reflect the meaning of the statute from the entire context and from the statute's general purpose. *See Bellsouth Telecommunications v. Greer*, 972 S.W.2d 663 (Tenn. Ct. App. 1997). The statute should be given the construction that will not render its terms useless. *State v. Netto*, 486 S.W.2d 725 (Tenn. 1972).

The legislative intent is clear from a plain reading of the statute that the county or other public employer is bound by Tenn. Code Ann. § 8-33-109 to provide a paid military leave of absence, regardless of whether such employee is full-time or part-time. There is no exception for part-time county employees in section 109. *See* Tenn. Code Ann. § 8-33-109. By its express terms, the statute covers "all officers and employees" of public entities, not merely full-time employees of such entities.

Therefore, it is the opinion of this Office that part-time county employees that serve weekend National Guard duty that causes them to miss scheduled weekend county employment are entitled to a "leave of absence from their respective duties, without loss of time, pay, regular leave or vacation, impairment of efficiency rating, or any other rights or benefits to which [they are] otherwise entitled." Tenn. Code Ann. § 8-33-109.

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