**S T A T E O F T E N N E S S E E**
OFFICE OF THE
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Opinion No. 00-190

Salary of Jackson County General Sessions Judge

## QUESTIONS

1. a. What is the current (1999-2000) salary of a Class 7 general session judge who exercises juvenile and domestic relations jurisdiction?

b. 1975 Tenn. Priv. Acts Ch. 28 makes the Jackson County General Sessions Judge the Judge of the Court of Common Pleas and confers upon that judge workers' compensation, removal of disability of minors, and adoption jurisdiction, and authorizes interchange with the circuit and criminal judges and the chancellor. It also provides a $5,000 annual supplement in addition to any other salary received by the judge. What is the effect of this private act on calculating the salary of the Jackson County General Sessions Judge?

2. If the 2000 census figures indicate that the same Class 7 county referenced in Question 1 has become a Class 6 county, what would the salary of the general sessions judge be?

3. When would any increase in salary be effective if the county moves from a Class 7 to a Class 6 classification?

4. When should the anticipated increase in salary be budgeted?

## OPINIONS

1.a. The current salary for a Class 7 general sessions judge who exercises juvenile and domestic relations jurisdictions is the base salary, with annual adjustments, and jurisdictional supplements, increased as required under Tenn. Code Ann. § 16-15-3001(i)(l). That statute provides for an increase of $10,000 or 20 per cent — whichever is less — of the salary the judge *actually received* on August 31, 1998. To this result must then be added annual adjustments on the entire amount to reflect changes in the consumer price index under Tenn. Code Ann. § 8-23-101 on July 1, 1999 and July 1, 2000. The total salary may not be greater than the salary paid to a judge of a circuit court.

b. The Jackson County General Sessions Judge is entitled to receive the $5,000 supplement in addition to the $10,000 maximum supplement payable to a general sessions judge in a Class 7 county for the exercise of additional jurisdiction. The effect of the private act supplement, assuming the county was paying it in 1998, is to increase the salary the judge *actually received* on August 31, 1998. But it should not be included in calculating annual adjustments under Tenn. Code Ann. § 8-23-101.

2. The new salary payable effective April 1, 2000 should be calculated by subtracting the Class 7 base salary, including consumer price adjustments made to that date, from the salary calculated under 1.b. above, and adding back the Class 6 base salary, including consumer price adjustments required to be made to that date. As a result of the change in class and by operation of the private act, the judge is also entitled to receive the $20,000 maximum for exercising additional jurisdiction. This change should be reflected by subtracting the former $10,000 maximum, along with consumer price adjustments made July 1, 1999 under Tenn. Code Ann. § 8-23-103, from the salary calculated under 1.b above and adding the new $20,000 maximum, along with consumer price adjustments under the same statute. The $5,000 supplement under the private act is still reflected in this figure. But the private act supplement should not be included in calculating subsequent annual adjustments under Tenn. Code Ann. § 8-23-101. The total salary may not be greater than the salary paid to a judge of a circuit court.

3. Any increase in salary resulting from a change in the classification of the county from Class 7 to Class 6 is effective April 1, 2000.

4. The increase should be reflected in the budget for the fiscal year in which it becomes payable.

## ANALYSIS

1. Salary for Class 7 General Sessions Judge

a. Salary for a Class 7 General Sessions Judge with Juvenile and Domestic Relations Jurisdiction

This request includes several questions about the salary of a general sessions judge in Jackson County, which has been a Class 7 county, who exercises juvenile and domestic relations jurisdiction. Our Office lacks the information necessary to arrive at a numerical figure for this salary. This opinion will therefore describe the method for calculating the salary as set forth in the relevant statutes. Under Tenn. Code Ann. § 37-1-203, a general sessions judge exercises juvenile court jurisdiction except in counties or municipalities where juvenile courts are specially provided by law. No such act appears to apply in Jackson County, and therefore the general sessions judge in Jackson County exercises juvenile court jurisdiction. Under Tenn. Code Ann. § 16-15-501(b)(3), the judge of a court of general sessions in Jackson County exercises concurrent jurisdiction with the circuit judge and chancellor in divorce cases.

Salaries for general sessions judges are calculated under Tenn. Code Ann. § 16-15-5003. The base salary of a general sessions judge for counties of the seventh class effective September 1, 1990 is $20,000. Tenn. Code Ann. § 16-15-5003(a)(7). Under subsection (f), this base salary was required to be adjusted beginning July 1, 1991 until July 1, 1998, based on changes in the average consumer price index between the two calendar years preceding July 1 of the year in which the adjustment was made. In addition to the base salary provided by subsection (a), a general sessions judge in a Class 7 county is entitled to receive an annual supplement as provided in Tenn. Code Ann. § 16-15-5003(d)(1). The total may not exceed ten thousand dollars. Tenn. Code Ann. § 16-15-2003(d)(2). But adjustments under subsection (f) apply only to the base salary set forth in subsection (a). Tenn. Code Ann. § 16-15-5003(f)(2). Therefore, as of July 1, 1998, the salary of a Class 7 general sessions judge with juvenile and domestic jurisdiction would be the sum of twenty thousand dollars, as adjusted annually under subsection (f), and ten thousand dollars reflecting the maximum extra amount payable for added jurisdiction.

Under Tenn. Code Ann. § 16-15-5003(i), the salary of general sessions court judges was increased as follows:

> Effective September 1, 1998, the annual salary for a general sessions court judge shall be increased over the annual compensation and supplements and annual adjustments which each judge *actually received as of August 31, 1998*, by the lesser of:
> (A) Ten thousand dollars ($10,000); or
> (B) Twenty percent (20%) of such annual compensation and supplements and annual adjustments as of August 31, 1998.

(Emphasis added). Under this provision, the general sessions judge's salary was therefore increased by ten thousand dollars or twenty per cent of the judge's compensation actually received August 31. Presumably, the base for calculating this increase would be the salary payable as of July 1, 1998, unless the judge actually received a different salary on August 31.

The statute then provides:

> (3) Instead of the annual adjustments authorized in subsection (f), on July 1, 1999, and each succeeding July 1, the base salaries as adjusted annually and supplements as adjusted annually established by this section shall be adjusted in accordance with the provisions of § 8-23-103.
>
> (4)(A) The compensation, supplement and annual adjustment provisions of this section are to be construed as minimum levels. The compensation schedule established by this part is a comprehensive plan, and no salary supplement in excess of the supplements provided by this part shall be available to a general sessions judge *unless expressly provided and funded by a private act*.

Tenn. Code Ann. § 16-15-5003(i)(B)(3) & (4)(A) (emphasis added). Under Tenn. Code Ann. § 8-23-103, salaries of judges, justices and chancellors are adjusted to reflect a change in the consumer price index between the two calendar years preceding July 1 of the year in which the adjustment was made.

Under Tenn. Code Ann. § 16-15-5003(i), therefore, the judge's salary for 1999 would be the salary as calculated as of September 1, 1998, and then increased as of July 1, 1999 to reflect the increase in the consumer index under Tenn. Code Ann. § 8-23-101. The judge's salary must be further increased as of July 1, 2000. Under Tenn. Code Ann. § 16-15-5003(j), no judge of a general sessions court may be paid a salary greater than the salary paid to a judge of a circuit court.

b. Effect of the Salary Supplement under 1975 Tenn. Priv. Acts Ch. 28

1975 Tenn. Priv. Acts Ch. 28 creates a Court of Common Pleas in Jackson County and provides that the General Sessions Judge of Jackson County, upon his being elected and qualified in that office, is also the Judge of the Court of Common Pleas. The Court of Common Pleas has concurrent jurisdiction with circuit and chancery court in the county with regard to workers' compensation, removal of disability of minors, and adoption jurisdiction. 1975 Tenn. Priv. Acts Ch. 28, § 4. The Judge of the Court of Common Pleas may sit by interchange with the circuit, chancery and criminal judges in the county. *Id.* Under Section 7 of the private act, the Judge of the Court of Common Pleas receives a salary of five thousand dollars a year from the county treasury in addition to the salary received by him as general sessions judge. We think that, under Tenn. Code Ann. § 16-15-5003(g), the Jackson County General Sessions Judge is entitled to receive the private act supplement in addition to the maximum $10,000 supplement for additional jurisdiction under Tenn. Code Ann. § 16-15-5003(d)(2). Assuming that this supplement was included in the salary the judge was *actually receiving* as of August 31, 1998, it should therefore be included in calculating the increase under Tenn. Code Ann. § 16-15-5003(i)(1). But it should not be adjusted annually under Tenn. Code Ann. § 16-15-5003(i)(3) and Tenn. Code Ann. § 8-23-103. Again, under Tenn. Code Ann. § 16-15-5003(j), no judge of a general sessions court may be paid a salary greater than the salary paid to a judge of a circuit court.

2. Changes in the County Classification

The question then becomes how to calculate an increase in the general sessions judge's salary if the county, based on 2000 census figures, moves from the seventh class to the sixth. This change would affect the judge's base salary and the amount of additional compensation the judge may receive under Tenn. Code Ann. § 16-15-5003(c) reflecting additional jurisdiction. As discussed below, the new population bracket becomes effective April 1, 2000, the date of enumeration. Assuming that the county does change brackets, therefore, the judge's salary from April 1, 2000 to July 1, 2000, and from July 1, 2000 on would have to be recalculated to reflect the higher base salary and the higher payment for additional jurisdiction.

a. Change in the County Classification

Under Tenn. Code Ann. § 16-15-5003, the base salary for a general sessions judge in a county of the seventh class is $20,000, adjusted annually from 1991 until 1998 under subsection (f), and from 1999 on under subsection(i)(3) and Tenn. Code Ann. § 8-23-103. The base salary for a general sessions judge in a county of the sixth class is $22,000, with the same adjustments. The only way to reflect the change in the county classification while retaining the one-time statutory increase in 1998 is to begin with the salary calculated above. Therefore, in order to reflect the change in county classification, the base salary of $20,000, with annual adjustments, should be subtracted from the judge's salary calculated in 1.b. above. The base salary of $22,000, with annual adjustments, should then be added back.

b. Higher Payments for Additional Jurisdiction

Under Tenn. Code Ann. § 16-15-5003)(c), if a general sessions judge in a Class 6 county "has or by operation of law obtains" different types of jurisdiction, then the judge shall receive annual statutory supplements, up to a maximum of $20,000. The Jackson County General Sessions Judge exercises juvenile and domestic relations jurisdiction and, through the private act, workers' compensation jurisdiction. The statutory supplements for exercising these types of jurisdiction total $20,000. We think a court would conclude that the judge is entitled to receive the supplement of $5,000 for workers' compensation jurisdiction under the general law in addition to the $5,000 supplement under the private act. This conclusion is based on Tenn. Code Ann. § 16-15-5003(i)(4)(A), which provides that "[t]he compensation schedule established by this part is a comprehensive plan, and no salary supplement in excess of the supplements provided by this part shall be available to a general sessions judge *unless expressly provided and funded by a private act.*" Thus, the Jackson County General Sessions Judge would, as a result of the change in class, be entitled to the maximum of $20,000 for additional jurisdiction. We think this change should be reflected as follows. The $10,000 previous jurisdictional supplement along with July 1, 1999 consumer price increases should be subtracted from the salary calculated in 1.b. above. The higher additional jurisdictional supplement now payable, along with July 1, 1999 consumer price increases under Tenn. Code Ann. § 8-23-103, should then be added back. The base upon which subsequent increases are made under Tenn. Code Ann. § 8-23-103 should not include the $5,000 supplement under the private act. That supplement, however, should still be part of the judge's salary. Again, under Tenn. Code Ann. § 16-15-5003(j), no judge of a general sessions court may be paid a salary greater than the salary paid to a judge of a circuit court.

3. Effective Date of Increases

The next question is when an increase in salary resulting from a change in the class of the county would be payable. This Office has concluded that the effective date of a census, absent some other statutory provision, is the date of the enumeration, or April 1 of the year the census is taken. Op. Tenn. Atty. Gen. (January 9, 1981). No state statute provides otherwise. Tenn. Code Ann. § 1-3-116(b).

4. Budgeting the Salary Increase

The last question is when the anticipated salary increase should be budgeted. The increase should be reflected in the budget for the fiscal year in which it becomes payable.

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