S T A T E O F T E N N E S S E E
OFFICE OF THE
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February 15, 2001

Opinion No. 01-024

Salary of Hawkins County General Sessions Judge

QUESTION

Under Tenn. Code Ann. § 16-15-5001 and the 1990 census, Hawkins County was a county of the second class for the purpose of determining the compensation of its general sessions judge under Tenn. Code Ann. § 16-15-5003. How should the judge's salary be determined if, under the 2000 census, Hawkins County becomes a county of the first class?

OPINION

The new base salary should be $70,000, plus all cost of living adjustments required for that salary from July 1, 1990, to July 1, 1998. To this figure should be added the actual one-time increase made to the Hawkins County General Sessions Judge's salary effective September 1, 1998. To this figure should be added the cost of living adjustments required for that salary on July 1, 1999, and July 1, 2000. No general or private act appears to entitle the Hawkins County General Sessions Judge to any salary supplements. The total salary may not be higher than the salary paid to a judge of a circuit court.

ANALYSIS

Under Tenn. Code Ann. § 16-15-5001 and the 1990 census, Hawkins County was a county of the second class for the purpose of determining the compensation of its general sessions judge under Tenn. Code Ann. § 16-15-5003. Under that statute, the base salary for a general sessions judge in a county of the second class effective September 1, 1990, was $50,000. You have asked how to calculate the salary of the Hawkins County General Sessions Judge in the event that, under the 2000 census, Hawkins County becomes a county of the first class. Under Tenn. Code Ann. § 16-15-5003, the base salary for a general sessions judge in a county of the first class effective September 1, 1990, was $70,000. Under Tenn. Code Ann. § 16-15-5001(d)(2), if a county moves into another class on the basis of a census during the term of a general sessions judge, the salary of the judge must be determined by the higher classification for the remainder of the term for which the judge was elected. Any increase in compensation due to reclassification based on the results of the 2000 federal census takes effect April 1, 2000. Op.Tenn.Atty.Gen. 00-123 (August 4, 2000). But no county has the authority to pay such increase until the results of the 2000 federal census are certified. *Id.*

The request includes two possible alternatives: either the $70,000 base salary, or the sum of the $70,000 base salary and all salary adjustments actually made to the judge's salary from 1990 on. Our Office addressed recalculating the salary of a general sessions judge where the county has moved into a higher salary class during the judge's term in Op.Tenn.Atty.Gen. 00-190 (December 20, 2000). There, we concluded that the new salary must reflect cost of living increases on the higher base salary from 1991 and on, as well as the one-time statutory increase to general sessions judges' salaries effective September 1, 1998. *See also* Op.Tenn.Atty.Gen. 98-141 (August 7, 1998). Neither of the figures that the request suggests would include cost of living increases made to the higher base salary. Thus the base salary for a general sessions judge in a first class county effective in 2000 must reflect the 1990 $70,000 base and all required statutory adjustments on that base from that date. Under Tenn. Code Ann. § 16-15-5003(f), the base salary was required to be adjusted by a cost of living increase on July 1, 1991, and each succeeding July 1. Those adjustments were required through July 1, 1998.

Effective September 1, 1998, all general sessions judges received a one-time increase, referred to above, under Tenn. Code Ann. § 16-15-5003(i). Under this section, the annual salary for every general sessions judge was increased over annual compensation and supplements and annual adjustments each judge actually received as of August 31, 1998, by twenty percent of that compensation or ten thousand dollars, whichever was less. Since the Hawkins County General Sessions Judge was entitled to a base salary of $50,000 in 1990, we assume that he or she received a $10,000 increase in 1998 under this provision.

Under Tenn. Code Ann. § 16-15-5003(i)(3), on July 1, 1999, and each succeeding July 1, the base salary must be adjusted in accordance with Tenn. Code Ann. § 8-23-103. The base salary for a general sessions judge in a first class county as of April 1, 2000, would therefore be $70,000, plus the cost of living increases made to the $70,000 base from July 1, 1991, through July 1, 1998. To that figure should be added the one-time increase the judge actually received effective September 1, 1998. To this figure should then be added the increase required July 1, 1999, in accordance with Tenn. Code Ann. § 8-23-103. The sum is the salary of the general sessions judge due in monthly increments from April 1, 2000, to July 1, 2000. The salary should be increased again July 1, 2000, in accordance with Tenn. Code Ann. § 8-23-103 and on each July 1 thereafter. 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 the circuit court.

Tenn Code Ann. § 16-15-5003 also addresses payment of salary supplements for additional jurisdiction and payments under private acts. Neither of these provisions appears to apply to the Hawkins County General Sessions Judge if the county becomes a class one county. As a general matter, a general sessions judge in a class one county is not entitled to any salary supplements for exercising additional jurisdiction, nor have we found any private act providing for a salary

supplement for the Hawkins County General Sessions Judge.

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