S T A T E O F T E N N E S S E E
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Opinion No. 01-109

Salary of Roane County General Sessions Judge

QUESTION

Under the results of the 2000 census, Roane County will be a county in the first class for purposes of calculating its general sessions judge's salary under Tenn. Code Ann. § 16-15-5003. The judge exercises probate and juvenile jurisdiction. How should the judge's salary be calculated when the county becomes a class 1 county?

OPINION

The new salary is the $70,000 base for class one judges, increased by cost of living increases payable under Tenn. Code Ann. § 16-15-5003(f) to July 30, 1998. To this figure should be added $10,000 or twenty percent of the salary the judge was *actually receiving* as of August 31, 1998, whichever is greater. This is the salary payable as of April 2000. To this figure should be added subsequent cost of living increases due in July of 2000 and 2001.

ANALYSIS

Under Tenn. Code Ann. § 16-15-5003(a)(1), effective September 1, 1990, the annual base salary for a general sessions judge in a county of the first class was set at $70,000. That statute does not provide for salary supplements for a general sessions judge in a first class county exercising additional jurisdiction. But this Office concluded that, until Tenn. Code Ann. § 16-15-205 was expressly repealed in 1993, salary supplements under subsection (d) of that provision were still in effect. This Office concluded that supplements were constitutionally required to continue to be paid to any judge in a county of the first class who was elected or appointed to office before the 1993 repeal, through the end of that term. Op. Tenn. Atty. Gen. 94-44 (April 4, 1994). Assuming that the Roane County General Sessions Judge was reelected to a new term in 1998, the 1993 repeal can constitutionally go into effect with respect to the salary paid during this current term.

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 first class effective September 1, 1990, is $70,000. Tenn. Code Ann. § 16-15-5003(a)(1). 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. 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 percent of the judge's compensation actually received as of August 31, 1998. 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)(3) & (i)(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.

We think the new salary should include the $70,000 base, plus all cost of living increases to July 1998. To that sum should be added the one-time increase the judge received as of September 1, 1998. The statute sets this increase at $10,000 or twenty percent of the salary and supplements the judge was actually receiving as of that date, whichever was less. We assume that the Roane County General Sessions Judge was receiving at least the $50,000 base payable to a judge of the second class. The Roane County General Sessions Judge therefore presumably received a $10,000 increase. To this sum should be added

cost of living increases under Tenn. Code Ann. § 8-23-103 for 1999. This is the salary payable from April 2000 to July 2000. Effective July 2000,
the salary should be increased by the applicable cost of living increase under Tenn. Code Ann. § 8-23-103.

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