S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

September 25, 2001

Opinion No. 01-151

Reducing Number of County Commissioners

QUESTION

Is the Dickson County Commission authorized to reduce the number of its members, or must this be done by private act?

OPINION

The Dickson County Commission may reduce the number of its members as part of a reapportionment plan as required by Tenn. Code Ann. § 5-1-111. No private act is necessary. The county commission must have a minimum of nine members.

ANALYSIS

This request concerns the authority of the Dickson County Commission to reduce the number of its members. The request asks whether the county commission may accomplish this by its own actions, or whether a private act of the General Assembly is required to reduce the number of members of a county commission. This Office has found no private act addressing the membership of the Dickson County Commission. Article VII, Section 1 of the Tennessee Constitution provides in relevant part:

> The qualified voters of each county shall elect for terms of four years a legislative body ....
>
> The legislative body shall be composed of representatives from districts in the county *as drawn by the county legislative body pursuant to statutes enacted by the General Assembly.* Districts shall be reapportioned at least every ten years based upon the most recent federal census. The legislative body shall not exceed twenty-five members, and no more than three representatives shall be elected from a district.

Tenn.Const.Art. VII, § 1 (emphasis added).

Tenn. Code Ann. § 5-5-102 provides in relevant part that "[t]he county legislative body shall be composed of not less than nine (9) nor more than twenty-five (25) members." Tenn. Code Ann. § 5-5-102(a)(1). In addition, state law provides for reapportionment by the county legislative body. Tenn. Code Ann. § 5-1-111 provides in relevant part:

> (a) Prior to January 1, 1982, and at least every ten (10) years thereafter, county legislative bodies of the different counties shall meet and, a majority of the members being present and concurring, shall change the boundaries of districts or redistrict a county entirely if necessary to apportion the county legislative body so that the members represent substantially equal populations.
>
> (b) The county legislative body may increase or decrease the number of districts when the reapportionments are made.
>
> * * * *
>
> (d) The county legislative body must use the latest federal census data whenever a reapportionment is made.

We think that the authority to increase or decrease the number of members within the statutorily allowable range is implicit in the authority to increase or decrease the number of districts. For this reason, the Dickson County Commission is authorized to reduce the number of commission members as part of its reapportionment process. No private act by the General Assembly is necessary.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

Honorable Doug Jackson
State Senator
11A Legislative Plaza
Nashville, TN 37243-0025