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Opinion No. 07-105

"Base Compensation" under Tenn. Code Ann. § 8-24-102(j)(2)

QUESTION

Under Tenn. Code Ann. § 8-24-102(j)(2), a county legislative body is authorized to provide additional compensation to a clerk of court serving more than one court. The additional compensation is to be "in the amount of ten percent (10%) of the clerk's base compensation." To what figure does the term "base compensation" as used in this statute refer?

OPINION

We think the term refers to the uniform salary the county actually pays general officers under Tenn. Code Ann. § 8-24-102(h) in the same fiscal year.

ANALYSIS

This opinion concerns calculating the salary of a clerk of court receiving additional compensation under Tenn. Code Ann. § 8-24-102(j)(2). Subsection (b) of this statute fixes the minimum salary of "general officers." This term includes assessors of property, county clerks, clerks and masters of chancery courts, clerks of probate courts, clerks of circuit courts, clerks of general sessions courts, clerks of criminal courts, juvenile court clerks, county trustees, and registers of deeds. Tenn. Code Ann. § 8-24-102(a). The minimum is increased each July under Tenn. Code Ann. § 8-24-102(d).[1] Tenn. Code Ann. § 8-24-102(h) provides:

> All general officers of the county shall be paid the same salary with the exception of any education incentive payments made to certified public administrators under § 5-1-310 and any payments made to the assessor of property under § 67-1-508.

Under Tenn. Code Ann. § 8-24-102(i):

> The county legislative body of each county may increase or decrease compensation of county officials so long as the compensation is maintained at, or above, the minimum level established herein.

[1] The General Assembly recently amended subsection (d) of this statute. 2007 Tenn. Pub. Acts Ch. 470. That subsection is not relevant to the questions raised in this opinion.

Tenn. Code Ann. § 8-24-102(j)(2) authorizes additional compensation to a clerk of court who serves more than one court in the county. This subdivision provides:

> (2) Notwithstanding the provisions of subsection (h) [generally requiring the same salary to all "general officers"] to the contrary, a county legislative body may provide to a clerk of court who serves more than one (1) court in the county *additional compensation in the amount of ten percent (10%) of the clerk's base compensation.* The increase shall be for the purpose of compensating the clerk for the additional duties and time required to serve multiple courts. For the purposes of this section, a clerk and master shall be considered eligible for this additional compensation, if the clerk serves as clerk of the court that exercises probate jurisdiction. In order for the increase to be valid, it must be adopted by resolution of the county legislative body. For the purpose of subsection (g), any additional compensation provided to a general officer under any provision of this section shall be included when determining the salary paid to the general officers of the county.

(Emphasis added). The question is what figure should be used as the "base compensation" in calculating the clerk's additional compensation under this statute. The request suggests three possibilities: first, the minimum figures in Tenn. Code Ann. § 8-24-102(b); second, the minimum for the current year as calculated under Tenn. Code Ann. § 8-24-102(d); and third, the actual uniform salary paid general officers under Tenn. Code Ann. § 8-24-102(h).

Courts must attempt to give effect to the legislative purpose and intent of a statute, which is determined by the ordinary meaning of its text, rather than seek to alter or amend it. *Griffin v. State*, 182 S.W.3d 795 (Tenn. 2006). We do not think the term "base compensation" as used in this subdivision refers to the minimum salary fixed under subsection (b) or adjusted annually under subsection (d). The statute nowhere refers to these figures as a "base salary;" rather, they are minimum levels that the county is free to increase under subsection (i). Instead, we think the term refers to the uniform salary the county actually pays general officers under Tenn. Code Ann. § 8-24-102(h) in the same fiscal year. This conclusion is based on the statutory language. The term "base salary" is synonymous with the term "basic wage." *Webster's Third New International Dictionary of the English Language Unabridged* 181 (1986). The same dictionary defines the term "basic wage" or "basic salary" as follows:

> **Basic wage** *or* **basic salary** *n* 1: a wage or salary based on the cost of living and used as a standard for calculating rates of pay 2: a rate of pay for a standard work period exclusive of such additional payments as bonuses and overtime.

Id. at 182. In the context of the statute, we think the term "base salary" is used as the term is defined in the second definition. Using this definition, the term "base salary" would be the rate of pay to which the court clerk is entitled as a general officer under Tenn. Code Ann. § 8-24-102(h). Further, subdivision (j)(2) expressly refers to subsection (h). The additional compensation is intended to compensate the clerk for additional duties and time required to serve multiple courts. Logically, we

think that (j)(2) was intended to provide that the clerk given the supplement would make ten percent more than the other general county officers.

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