

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

July 18, 2007

Opinion No. 07-110

Salaries of County Officers

---

**QUESTIONS**

Under Tenn. Code Ann. § 8-24-102(g), the compensation of the Sheriff and the Chief Administrative Officer of the County Highway Department must be at least ten percent higher than the salary paid to the general officers of the county. Under Tenn. Code Ann. § 8-24-102(e), the compensation of a full-time County Mayor must be at least five percent higher than the salary paid to any other constitutional officer.

1. Tenn. Code Ann. § 8-24-102(j)(2) authorizes the County Commission to provide additional compensation of ten percent to a clerk of court who serves more than one court in the county. The last sentence of this subdivision provides, “[f]or 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.” If the County Commission provides the additional ten percent compensation to a clerk of court, is the county legislative body required to approve a corresponding increase in the compensation of the Sheriff, the Chief Administrative Officer of the Highway Department, and the County Mayor?

2. The County Commission is authorized to pay the Sheriff to administer the County Workhouse under Tenn. Code Ann. § 41-2-104(h)(1)(B). Under Tenn. Code Ann. § 41-2-108, the Sheriff serves as superintendent of a workhouse where the jail has been declared a workhouse. The Sheriff is entitled to additional compensation for serving in this capacity under Tenn. Code Ann. § 8-24-111. Is the amount of supplement under these statutes to be considered when determining whether the Sheriff is receiving ten percent more than the general officers of the county under Tenn. Code Ann. § 8-24-102(g)?

**OPINIONS**

1. Yes. Since, under subsection (g), the salary of the Sheriff and Chief Administrative Officer of the Highway Department must be ten percent higher than the salary paid to general officers, including the court clerk receiving the supplement, the salary of these two officials must be ten percent higher than that of the court clerk receiving the supplement. The full-time County Mayor’s salary must be five percent higher than that of the Sheriff.

2. Yes. Compensation paid to the Sheriff for supervising the workhouse should be included in determining whether the Sheriff's compensation is ten percent higher than that of general officials as required by Tenn. Code Ann. § 8-24-102(g).

### ANALYSIS

This opinion concerns calculating the salaries of the County Mayor, Sheriff, and Chief Administrative Officer of the County Highway Department under Tenn. Code Ann. § 8-24-102.<sup>1</sup> 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). Subsection (g) provides:

The compensation for the sheriff and chief administrative officer of the county highway department shall be at least ten percent (10%) higher than the salary paid to the general officers of the county. The county legislative body of each county may increase or decrease the compensation of the chief administrative officer of the county highway department so long as the compensation is maintained at or above the minimum level established herein.

Subsection (e) provides:

The county mayor's compensation shall be at least five percent (5%) higher than the salary paid to any other county constitutional office of the respective counties. The minimum salary set out above shall apply only to a county mayor who devotes full time to the county mayor's office. The salary of a county mayor who devotes less than full time to the county mayor's office shall be determined by resolution of the county legislative body prior to the election of such official. For purposes of this subsection (e), "county official" does not include the judge of general sessions court.

The Sheriff is a county constitutional officer under Article VII, Section 1, of the Tennessee Constitution. Other county constitutional officers including the assessor, the trustee, the register of deeds, and the county clerk are "general officers" paid under Tenn. Code Ann. § 8-24-102(b).

#### 1. Effect of Supplement to Clerk of Court

The first question concerns the effect of the County Commission's decision to pay a supplement to a clerk of court under Tenn. Code Ann. § 8-24-102(j)(2). That subdivision provides:

---

<sup>1</sup> 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.

(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 first question is whether, if the County Commission provides the additional ten percent compensation to a clerk of court, the county legislative body must approve a corresponding increase in the compensation of the Sheriff, the Chief Administrative Officer of the Highway Department, and the County Mayor. Under the last sentence of (j)(2), additional compensation provided a general officer under any provision of Tenn. Code Ann. § 8-24-102 must be included when determining the salary paid to general officers under subsection (g). Clerks and masters of chancery courts, probate court clerks, circuit court clerks, general sessions court clerks, criminal court clerks, and juvenile court clerks are all general officers under the statute. A supplement paid to any of these officials under Tenn. Code Ann. § 8-24-102(j)(2), therefore, must be included when determining the salary paid to general officers under subsection (g). Since, under subsection (g), the salary of the Sheriff and Chief Administrative Officer of the Highway Department must be ten percent higher than the salary paid to general officers, including the court clerk receiving the supplement, the salary of these two officials must be ten percent higher than that of the court clerk receiving the supplement. The full-time County Mayor’s salary must be five percent higher than that of the Sheriff.

The request refers to Op. Tenn. Att’y Gen. 05-127 (September 29, 2005). Tenn. Code Ann. § 8-24-102(j)(2) has been amended since that opinion was written. 2006 Tenn. Pub. Acts Ch. 601. That act added the last sentence in (j)(2) quoted above. To the extent the 2005 opinion interprets a statute that has since been amended, it is no longer valid.

## 2. Supplement to Sheriff for Performing Other Duties

The second question concerns the effect of the County Commission’s decision to supplement the Sheriff’s salary for performing other functions. Under Tenn. Code Ann. § 41-2-102, a County Commission that has not provided a separate workhouse may declare its jail to be a workhouse. Tenn. Code Ann. § 41-2-104 outlines several different means a County Commission may select to administer a separate workhouse or a county jail declared to be a workhouse. Subdivision (h)(1)(B) provides:

As a further alternative to a board of workhouse commissioners, any county may, upon recommendation by the county mayor, and by resolution of the county legislative body, place the operation, supervision and control of the county workhouse under the administrative control of the county sheriff. Administrative control of the workhouse shall be subject to the terms and conditions as the county legislative body and the sheriff may agree. *Notwithstanding any provisions of law to the contrary, the agreement between the county legislative body and the sheriff may provide for the payment of additional compensation to the sheriff for the services.* If a county chooses this further alternative as provided in this subdivision (h)(1), the sheriff shall possess the same powers, duties and responsibilities as are provided by this section for the board of workhouse commissioners, unless otherwise provided by the agreement between the county legislative body and the sheriff.

(Emphasis added).

Similarly, under Tenn. Code Ann. § 41-2-108, whenever the jail in a county has been declared a workhouse as provided in Tenn. Code Ann. § 41-2-102, the Sheriff is *ex officio* the Superintendent of the Workhouse. Tenn. Code Ann. § 8-24-111 provides:

The county legislative bodies of the different counties shall, at their first session in each and every year, make such allowance as they, in their discretion, think sufficient to compensate their sheriffs for ex officio service.

Tenn. Code Ann. § 8-24-103, abolishing the practice of supporting the Sheriff's Office by fees, further confirms the Sheriff's right to receive a supplement for supervising the workhouse. The statute states in relevant part that, "this provision and the provisions of subdivision (a)(2) are not intended to prevent the county legislative body from paying the sheriff in such county an amount in addition to the maximum salary allowed by § 8-24-102 for ex officio services as superintendent of the workhouse, if the workhouse in such county is combined with the jail as provided for by title 41, chapter 2."

The question is whether compensation paid the Sheriff for supervising the workhouse should be included in determining whether the Sheriff's compensation is ten percent higher than that of general officials as required by Tenn. Code Ann. § 8-24-102(g). Tenn. Code Ann. § 41-2-104(h)(1)(B) refers to additional "compensation." Tenn. § 8-24-102(g) also refers to "compensation." Nothing in this statute suggests that term must be limited to compensation explicitly referred to within this statute. Similarly, Tenn. Code Ann. § 8-24-111 refers to an allowance to "compensate" Sheriffs for ex officio services. For that reason, compensation paid to the Sheriff for supervising the workhouse should be included in determining whether the Sheriff's compensation is ten percent higher than that of general officials as required by Tenn. Code Ann. § 8-24-102(g).

The request refers to Op. Tenn. Att’y Gen. 96-119 (September 12, 1996). As the request indicates, some of the statutes relevant to this inquiry have since been amended. But the current statutes support the same conclusion reached in Question 1 of the 1996 opinion.

ROBERT E. COOPER, JR.  
Attorney General and Reporter

MICHAEL E. MOORE  
Solicitor General

ANN LOUISE VIX  
Senior Counsel

Requested by:

Honorable Jimmy A. Eldridge  
State Representative  
204 War Memorial Building  
Nashville, TN 37243-0173