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

January 7, 2008

Opinion No. 08-01

Compensation of Gibson County Utility District Commissioners

QUESTION

Is the Board of Commissioners of the Gibson County Utility District authorized to raise per diem compensation to its members to three hundred dollars a day for up to twelve meetings each calendar year under Tenn. Code Ann. § 7-82-308(a)?

OPINION

Yes. Further, if the Gibson County Utility District is a gas utility district that is not financially distressed within the meaning of Tenn. Code Ann. § 7-82-703, the directors may raise their per diem compensation to up to five hundred dollars.

ANALYSIS

This opinion concerns the per diem compensation for members of the Board of Commissioners of the Gibson County Utility District. Research indicates that this District operates under Chapter 192 of the Private Acts of 1953. This act was amended in 1990 and 2002. 1990 Tenn. Priv. Acts Ch. 197; 2002 Tenn. Priv. Acts Ch. 141. The 1990 act amended Section 4 governing the Board of Commissioners. This act limited Commissioners' compensation to no more than one hundred dollars per month and reimbursement for expenses incurred in their official capacity. 1990 Tenn. Priv. Acts Ch. 197, § 2. But the 2002 act deleted and rewrote Section 4. 2002 Tenn. Priv. Acts Ch. 141, § 1. The new section does not specifically address compensation for the Board members but simply provides, "All other duties, rights, *compensation*, and powers of the Commissioners of the Gibson County Utility District shall be governed by the Utility District Act of 1937." (Emphasis added). The Utility District Act of 1937, therefore, governs compensation for members of the Board of Commissioners of the Gibson County Utility District.

The Utility District Act of 1937 is codified at Tenn. Code Ann. §§ 7-82-101, *et seq.* Tenn. Code Ann. § 7-82-308(a)(1), recently amended, provides in relevant part:

> The members of the board shall serve without compensation for their services, except that by resolution duly adopted by the board of commissioners, each commissioner may receive per diem payments for not more than twelve (12) meetings of the board

> of commissioners in any calendar year, at rates not greater than three hundred dollars ($300) per meeting. . . . Commissioners in those districts that are not financially distressed utility districts as defined in § 7-82-703 that distribute and sell natural gas are thereby authorized, upon resolution duly adopted by the board of commissioners, to receive not more than five hundred dollars ($500) per diem payments in the manner provided by this part.

Thus, under Tenn. Code Ann. § 7-82-308(a)(1), members of the Board of Commissioners for the Gibson County Utility District may, by a board resolution, be authorized to receive per diem payments of up to three hundred dollars per meeting for not more than twelve meetings in any calendar year. Further, if the Gibson County Utility District distributes natural gas and is not a financially distressed utility district within the meaning of Tenn. Code Ann. § 7-82-703, board members may, by board resolution, be authorized to receive per diem payments of up to five hundred dollars.

ROBERT E. COOPER, JR.
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

Honorable Lowe Finney
State Senator
4 Legislative Plaza
Nashville, TN 37243-0025