

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
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July 12, 2011

Opinion No. 11-57

County Archives and Record Management Fee

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**QUESTION**

Whether Tenn. Code Ann. § 10-7-408(b) requires a county legislative body to uniformly impose the same archives and record management fee for public records.

**OPINION**

No, the statute only requires that the fee not exceed five dollars (\$5.00).

**ANALYSIS**

Tenn. Code Ann. § 10-7-408(b)(2) provides that in any county that has created a county records commission, the county legislative body is authorized to “[e]stablish and collect, through all entities creating public records, as defined in § 10-7-403(1) and (3), except for the office of the county register, an archives and record management fee not to exceed five dollars (\$5.00) per each record filed by the entities creating the public records.” Subsections (1) and (3) of Tenn. Code Ann. § 10-7-403 define “public records” as “[a]ll documents, papers, records, books, and books of account in all county offices, including, but not limited to, the county clerk, the county register, the county trustee, the sheriff, the county assessor, the county executive and county commissioners, if any” and the “minutes and records of the county legislative body.” Tenn. Code Ann. § 10-7-408(b)(3) authorizes the county legislative body to establish a similar archives and record management fee for public records defined in Tenn. Code Ann. § 10-7-403(2), filed with the clerks of court for the purpose of initiating a legal proceeding.

You have asked whether Tenn. Code Ann. § 10-7-408(b) requires a county legislative body to uniformly impose the same fee for all records, or may it establish a varying fee schedule depending on the record filed. “The cardinal rule of statutory construction is to follow the plain meaning of the statute where the language is clear and unambiguous on its face.” *Jackson v. General Motors Corp.*, 60 S.W.3d 800, 804 (Tenn. 2001). Tenn. Code Ann. § 10-7-408(b)(2) and (3) on their face authorize a county legislative body to establish an archive and record management fee for each document filed with those entities creating public records that are identified in Tenn. Code Ann. § 10-7-403, with the exception of the county register, with the fee not to exceed five dollars (\$5.00) per document. The language of the statute is clear and unambiguous. It does not mandate the amount of the fee, but instead leaves it to the discretion of

the county legislative body to establish the fee, provided that it does not exceed five dollars (\$5.00) per document filed. Accordingly, it is our opinion that, as long as the fees do not exceed five dollars (\$5.00), a county legislative body is not required to impose a uniform archive and record management fee for all documents filed pursuant to Tenn. Code Ann. § 10-7-408(b)(2) and (3).

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Requested by:

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