



OFFICE OF COURT ADMINISTRATION

DAVID SLAYTON
Administrative Director

To: David Slayton

From: Mena Ramon

Re: Frequently Asked Questions Regarding County Budget Issues Related to the Legislative Increase to State Judicial Salaries

Q: What impact will the state judicial salary increase enacted by the 83rd Legislature have on counties?

A: The 83rd Legislature increased the salary of state district and appellate judges by 12%. Effective September 1, 2013, the state salary of a district judge will increase from \$125,000 to \$140,000 annually. As explained below, this salary increase affects the amount a county can supplement a district judges' salary and the minimum salary of statutory county court judges.

- District Judge Salary Supplement - The increase in salaries for the three levels of courts (trial, intermediate appellate, highest appellate) also resulted in an increase in the salary differentials between the levels of courts provided under Sec. 659.012, Tex. Gov't Code. Under the new salary differentials, the salary supplement that counties can provide to district judges under Sec. 32.001, Tex. Gov't Code will be \$18,000 annually. The current maximum is \$15,000¹.
- Statutory County Court Judge Salary - The salary of statutory county court judges is tied to the salary of the district judges in the counties in which the statutory county court judges serve. Under Sec. 25.0005(a), Tex. Gov't Code, the minimum salary of a statutory county court judge is "an amount that is not less than \$1,000 less than the total

¹ Counties are not prohibited from providing higher supplements to district court judges; however, in such event, the Comptroller of Public Accounts must reduce the amount of state salary paid to a district judge so that the judge's combined salary from the state and county supplements does not exceed the maximum amount provided under Tex. Gov't Code Sec. 659.012.

annual salary received by a district judge in the county” including contributions and supplements paid by the state or county other than the salary paid to a regional presiding judge. If the salary of a statutory county court judge is not already higher than the new minimum, the commissioners court will have to increase the judge’s salary to an amount that is at least equal to the new minimum amount.

Q: What is the effective date of the new minimum salary for statutory county court judges and does it require action by the commissioners court?

A: The effective date of the new minimum salary amount for statutory county court judges is September 1, 2013. If a statutory county court judge is not already making the minimum amount, effective September 1, 2013, the judge will be entitled to the salary increase regardless of whether the commissioners court approves or acts on the matter. *See* Attorney General Opinion JM – 1138 (1990) which provides that the salary of a statutory county court judge is set “by mandate of the Legislature and is not a matter addressed to the discretion of the commissioners court.” The opinion is available at:
<https://www.oag.state.tx.us/opinions/opinions/47mattox/op/1990/pdf/jm1138.pdf>

Q: If the county has not budgeted for the salary increase for statutory county court judges effective September 1, 2013, what options are available to the commissioners court?

A: Attorney General Opinion JM-1138 (1990) recognized that though the salary increase was not within the discretion of the commissioners court, the question remained whether they could authorize the expenditure after adoption of a budget for the year that included the lesser amount. The opinion concluded that because the statutory county court judge’s salary was a budgeted item, the commissioners court had the authority to transfer money from one budget item to another under Sec. 111.010(d) of the Local Government Code. (All three subchapters in Chapter 111 regarding the county budget process have a provision for such a transfer – Sec. 111.010(d), Sec. 111.041(c) and Sec. 111.070(c)(1).) The opinion also stated that if there were not sufficient funds in other budgeted items to cover the expense, the statutory county court judge’s claim for the additional salary could be included in the next year’s budget and paid after the adoption of the budget.

Q: Are commissioners courts required to publish notice of an increase to district judges’ county salary supplements provided under Sec. 32.001, Tex. Gov’t Code, or of statutory county court judge salaries mandated by the legislature/statute?

A: A commissioners court is not required to publish notice of judicial salary increases as is required by Sec. 152.013(b) of the Local Government Code for elected county or precinct officers. Sec. 152.017(1) of the Local Government Code exempts judges of courts of records from Subchapter B of Chapter 152 and the Sec. 152.013(b) notice requirement is found in Subchapter B.