



512/463-4000
FAX: 512/463-4965
P.O. Box 13528
AUSTIN, TEXAS 78711-3528

Carole Keeton Strayhorn
Texas Comptroller of Public Accounts

RECEIVED
NOV 22 2005
OPINION COMMITTEE

November 15, 2005

EXECUTIVE ADMINISTRATION
MAIL DISTRIBUTION

NOV 17 2005

ACTION BY Nancy Fuller
COPY TO Barry McBeck

The Honorable Greg Abbott
Attorney General
State of Texas
Post Office Box 12548
Austin, Texas 78711-2548

RQ-0419-GA

FILE # ML-44515-05

I.D. # 44515

Dear General Abbott:

I respectfully request your formal opinion concerning the lawful maximum salary payable to a state district judge under the provisions of House Bill (HB) 11, as recently enacted by the 79th Legislature in the Second Called Special Session.

HB 11 amends Section 659.012(1), Texas Government Code, to provide that state district judges are entitled to an annual salary of at least \$125,000, and further provides that the combined salary payable to a district judge from both state and county sources may not exceed the amount that is \$5,000 less than "*the salary provided* for a justice of a court of appeals" (other than the chief justice).

The "salary provided" for a justice of a court of appeals by the State is 110 percent of a district judge's salary under Section 659.012(2), Texas Government Code, as amended by HB 11. However, additional compensation is payable by each individual appeals district under Section 31.001, Texas Government Code, from county funds provided to the district. The combination of these state and local salary sources allows payment of \$145,000 as the maximum annual "salary provided" for a justice of a court of appeals.

Thus, if the phrase "salary provided" is viewed as including compensation to a court of appeals justice from both state and local sources, a state district judge would be entitled to a maximum salary of \$140,000 (\$145,000 minus \$5,000). On the other hand, if the "salary provided" language only applies to the state-paid salary of a court of appeals justice, which is \$137,500, then a state district judge would be entitled to a maximum lawful salary from all state and county sources of \$132,500 (\$137,500 minus \$5,000).

The question, therefore, is what does "salary provided for a justice of a court of appeals" mean for purposes of determining the maximum salary under House Bill 11 for a state district court judge. My understanding is that the Legislative Budget Board requested clarification from the legislative sponsors of HB 11 (Senator Duncan and Representative Hartnett), and I have received the enclosed correspondence jointly from them dated September 20, 2005, which indicates that it was at least the sponsors' intent that the maximum salary of a state district judge be \$132,500.

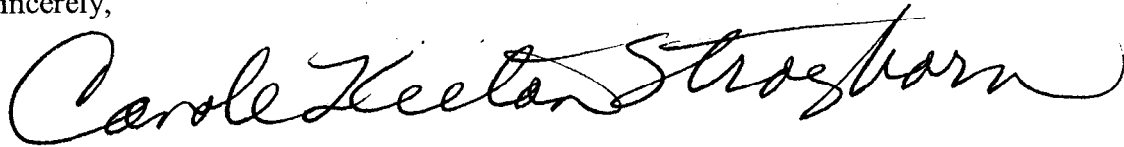


The Honorable Greg Abbott
November 15, 2005
Page Two

This legislation is effective December 1, 2005. I respectfully request your expedited consideration and your opinion on the foregoing at the earliest possible time to enable my office to fulfill the intent of the Legislature on the issue presented.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, reading "Carole Keeton Strayhorn". The signature is written in a cursive, flowing style with a large initial "C" and a long, sweeping tail.

Carole Keeton Strayhorn
Texas Comptroller

Enclosure



512/463-4000
FAX 512/463-4965
P.O. Box 13628
AUSTIN, TEXAS 78711-3528

Legis Con
Carole Keeton Strayhorn
Texas Comptroller of Public Accounts

4

September 26, 2005

✓ The Honorable Will F. Hartnett
State Representative, District 114
Texas House of Representatives
9713 North Central Expressway
Dallas, Texas 75231-4358

The Honorable Robert L. Duncan
State Senator, District 28
Texas Senate
1500 Broadway Street, Suite 902
Lubbock, Texas 79401-3108

Dear Chairman Hartnett and Chairman Duncan:

I am in receipt of your letter regarding the cap on district judge salaries. We will ensure that all payments to district judges by this office are in compliance with legislative intent.

Should you have any questions, please contact Shari Curtis, of my Budget and Internal Accounting Division, by e-mail at _____ or by phone at 1-800-531-5441, extension 3-4771, or you can call me directly at 512/463-4444.

Sincerely,

Carole Keeton Strayhorn
Texas Comptroller

c: Capitol Office
Shari Curtis
Eddie Solis



SEP 22 2005 10:38 FR FROM SENATOR ROBERT DUNCAN 512 463 2424 TO 65951

P.01/01

TEXAS HOUSE OF REPRESENTATIVES

4

STATE CAPITOL, ROOM GW.5
P.O. Box 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0576
FAX (512) 463-7827



9713 N. CENTRAL EXPRESSWAY
DALLAS, TEXAS 75231
(214) 891-1776
FAX (214) 891-1693

WILL HARTNETT

September 20, 2005

The Honorable Carole Keeton Strayhorn
Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

Re: Legislative Intent for H.B. 11 (79th Legislature, 2nd Called Session)

Dear Comptroller Strayhorn:

Per your request, we are confirming the intent of the Legislature concerning Government Code, Section 659.012(1). It was the Legislature's intent to link the cap on district judge salaries to the state salary provided an intermediate appellate court justice. This would cap the salary of a district judge from state and county sources at \$132,500.

Notably, during the First Called Session, Representative Nixon offered an amendment to the judicial pay raise bill which would have linked the district judges salary cap to an intermediate appellate justice's combined salary from state and county sources. This amendment failed.

Thank you for your inquiry and please feel free to contact us directly if you have further questions with regard to H.B. 11 (79th Legislature, 2nd Called Session).

Very truly yours,

Representative Will Hartnett

Senator Robert Duncan

cc: Eddie Solis



COMMITTEE: JUDICIARY, CHAIRMAN
REGULATED INDUSTRIES
DISTRICT 114

RECEIVED
SEP 22 2005
EXECUTIVE STAFF
CORRESPONDENCE