

STATE OF TENNESSEE

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Opinion No. 13-104

Funding Fringe Benefits Determined Under the Sheriff's Civil Service Law of 1974

QUESTIONS

1. The Sheriff's Civil Service Law of 1974 authorizes a three-member civil service board to "[d]etermine all fringe benefits to employees coming under the provisions of this part." Tenn. Code Ann. § 8-8-409(a). Are fringe benefits determined under this law required to be funded in the county budget?

2. Are the provisions of Tenn. Code Ann. § 8-8-409(a) impacted by Tenn. Code Ann. §§ 8-27-501 to -506 governing medical and other insurance for county employees?

3. Is a civil service board established pursuant to the Sheriff's Civil Service Law of 1974 authorized to adopt a benefit for employees of the sheriff's department that may either increase the amount the county commission must budget for the sheriff's department or cause an increase in the county property-tax rate to cover this additional expense?

OPINIONS

1. Yes.

2. Yes.

3. Yes.

ANALYSIS

The Sheriff's Civil Service Law of 1974 ("the Act") is codified at Tenn. Code Ann. §§ 8-8-401 to -419. The Act applies only where a county commission has adopted it by a two-thirds vote. Tenn. Code Ann. § 8-8-402(a). The Act creates a three-member civil service board selected by the county commission. Tenn. Code Ann. § 8-8-404. The board is required to adopt a classification plan for employees in the sheriff's department. Tenn. Code Ann. § 8-8-411. The board is also required to hold public and competitive tests to establish lists of persons eligible for the various positions in the classified service. Tenn. Code Ann. § 8-8-414. Vacancies must be filled from those lists. Tenn. Code Ann. § 8-8-415. The board is authorized to hold hearings regarding suspensions and dismissals of classified employees. Tenn. Code Ann. §§ 8-8-417 and -418.

1. The Act also authorizes the civil service board to “[d]etermine all fringe benefits to employees coming under the provisions of this part.” Tenn. Code Ann. § 8-8-409(a). The term “fringe benefits” is defined as “[s]ide, non-wage benefits which accompany or are in addition to a person’s employment.” *Crawley v. Hamilton County*, 193 S.W.3d 453, 455 (Tenn. 2006) (quoting *Black’s Law Dictionary* 667-68 (6th ed. 1990)). Determining whether the county commission is legally required to authorize expenditure of county funds for fringe benefits set by the sheriff’s civil service board under this statute requires reading the Sheriff’s Civil Service Law of 1974 together with other statutes governing county finances. The provisions of Tenn. Code Ann. § 8-22-104(a)(3) provide in relevant part:

The legislative body in any county *may* make the necessary appropriation and pay to any officer of its county as enumerated in § 8-22-101, to whom this section is applicable, the salary as fixed by § 8-24-102 *and the authorized expenses fixed by law for the operation of the office including the salary of all deputies*, which shall be the sole manner of compensation for those deputies as authorized pursuant to chapter 20 of this title, direct from the county trustee in twelve (12) equal monthly installments irrespective of the fees earned by such officers.

(Emphasis added). *See also* Tenn. Code Ann. § 5-9-401 (requiring county legislative body to appropriate funds for the operation of county government). Thus, all expenditures by the sheriff’s department, including those for employee fringe benefits set by the sheriff’s civil service board, are subject to authorization by the county commission in its annual budget.

2. Under Tenn. Code Ann. §§ 8-27-501 to -506, “[c]ounties are hereby expressly authorized to provide group life, hospitalization, disability, or medical insurance *for all county employees and officials*.” Tenn. Code Ann. § 8-27-501(a) (emphasis added). The county commission must appoint a committee to prepare and present contracts for “a policy or policies of group insurance to provide for the payment of group life, hospitalization, disability, or medical expenses for county employees and officials.” Tenn. Code Ann. § 8-27-502(b). The county commission must approve any such contract by a majority vote. *Id.* Employees and officials may elect to accept or reject such coverage. Tenn. Code Ann. § 8-27-503. The county commission may pay up to 100% of the cost of the program. Tenn. Code Ann. § 8-27-504. The remaining cost of the coverage is deducted from the salaries of participating employees and officials. *Id.* All funds to cover premiums are deposited to a county insurance fund. Tenn. Code Ann. § 8-27-505.

As discussed in the answer to Question 1, the Sheriff’s Civil Service Act of 1974 must be read together with other statutes governing county finances. The General Assembly intended Tenn. Code Ann. §§ 8-27-501 to -506 to apply to insurance coverage for “all” county employees and officials, included those of the sheriff’s department. Insurance coverage is considered a fringe benefit. *See Hamblen County Educ. Ass’n v. Bd. of Educ.*, 892 S.W.2d 428, 433 (Tenn. Ct. App. 1994) (quoting definition of “fringe benefits” in *Ballentine’s Law Dictionary* 503 (3d ed. 1969) as including “group insurance” and *Black’s Law Dictionary* 667-68 (6th ed. 1990) as including “paid insurance”). Therefore, the insurance coverage contemplated by Tenn. Code Ann. §§ 8-27-501 to -506 falls within the purview of Tenn. Code Ann. § 8-8-409(9) for determination by the civil service board and must be funded in the county budget.

3. As discussed in the answer to Question 1, funds to pay for any benefit for employees of the sheriff's department must be included in the county budget. The county commission would also need to approve any tax increase or other measure necessary to fund the benefit.

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