

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

November 19, 2021

Opinion No. 21-17

One Chancellor to Serve Both the Fourth and Fifth Judicial Districts Pursuant to Tenn. Code Ann. § 16-2-506(4)(A)

Question

Whether Tenn. Code Ann. § 16-2-506(4)(A) is intended to provide for one chancellor shared by Judicial Districts 4 and 5, or whether it is intended to apply only to the incumbent and ceases with the retirement of the incumbent chancellor.

Opinion

The plain language of Tenn. Code Ann. § 16-2-506(4)(A) reflects the legislative intent that one chancellor is to continue to serve both the Fourth and Fifth Judicial Districts and that one chancellor is to be elected by the qualified voters of both districts and may reside in either district.

ANALYSIS

Tennessee Code Annotated § 16-2-506 divides the State into thirty-two judicial districts and establishes, among other things, the number of circuit judges and chancellors for each judicial district. The question arises because the current, incumbent chancellor who serves both the Fourth and the Fifth Judicial Districts is retiring and does not intend to seek re-election in the August 2022 general election.

The Fifth Judicial District consists of Blount County. Tenn. Code Ann. § 16-2-506(5)(A). The Fourth Judicial District consists of Cocke, Grainger, Jefferson, and Sevier Counties. “The three incumbent trial court judges . . . currently residing in such counties [in the Fourth Judicial District] shall continue to serve the fourth judicial district in their respective capacities.” Tenn. Code Ann. § 16-2-506(4)(A). In addition,

[n]otwithstanding any other provision of law or this part to the contrary, *the chancellor currently serving in the fourth judicial district also serves the fifth judicial district*. As long as the chancellor for the fourth judicial district also serves the fifth judicial district, such chancellor shall be elected by the qualified voters of both such districts and may reside in either district.

Id. (emphasis added).

The plain language of Tenn. Code Ann. § 16-2-506(4)(A), which was last amended in 1999, reflects the legislative intent that one chancellor is to continue to serve both the Fourth and

Fifth Judicial Districts and that that one chancellor is to be elected by the qualified voters of both districts and may reside in either district.¹ If the person who holds that office retires or resigns, that does not abolish the office or alter the effect of the statute. It simply creates a vacancy that will be filled according to the applicable, statutorily prescribed process. Once the vacancy is filled, the new chancellor will be the “incumbent” or “currently serving” chancellor in the Fourth Judicial District within the meaning of § 16-2-506(4)(A). And as the “currently serving” chancellor in the Fourth Judicial District will also, as § 16-2-506(4)(A) specifies, “serve the fifth judicial district.” Put another way, neither “incumbent chancellor” nor “currently serving chancellor” as used in the statute is a reference to a particular person, but rather refers generally to anyone who holds that office at any given time. *See New Oxford American Dictionary* 881 (3d ed. 2010) (defining “incumbent”).

In accordance with that plain meaning, since 1990 the qualified voters of both the Fourth and Fifth Judicial Districts have elected the chancellor to serve both districts. The General Assembly originally enacted Tenn. Code Ann. § 16-2-506(4)(A) in 1984 and last amended that code section in 1999. *See* 1984 Tenn. Pub. Acts, ch. 931, § 6; 1991 Tenn. Pub. Acts, ch. 435, § 1; and 1999 Tenn. Pub. Acts, ch. 179, § 1. None of the amendments to § 16-2-506(4)(A) changed the provision that the chancellor serving the Fourth Judicial District is also to serve the Fifth Judicial District. Nor has the General Assembly amended § 16-2-506(5)(A) to create a separate office of chancellor for the Fifth Judicial District.

In sum, as reflected by the plain language of Tenn. Code Ann. § 16-2-506(4)(A), one chancellor is to continue to serve both the Fourth and Fifth Judicial Districts and that that one chancellor is to be elected by the qualified voters of both districts and may reside in either district. The retirement of any particular chancellor has no effect on that statutory allocation of judicial resources.

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¹ The statute’s provisions that the chancellor is to be elected by the qualified voters of both districts and may reside in either district is consistent with the requirements of Tenn. Const. art. VI, § 4, which requires that judges of the chancery court “be elected by the qualified voters of the district or circuit to which they are to be assigned” and that they shall have been a resident “of the circuit or district one year” prior to their election.