

STATE OF TENNESSEE

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Opinion No. 04-133

Private Act — General Sessions Judgeship — Funding

QUESTION

Chapter 111 of the Private Acts of 2004 creates a fourth section of the Blount County General Sessions Court. May the county add the fourth section without providing funds for an assistant district attorney general and assistant public defender if the cases assigned to the Court do not require the attendance or services of such officials?

OPINION

A fourth General Sessions Court may be added in Blount County if the county legislative body approves Chapter 111 by a two-thirds vote and funds any costs associated with the new judgeship.

ANALYSIS

Chapter 111 of the Private Acts of 2004 (“Chapter 111”) allows Blount County to have an additional general sessions court upon meeting certain conditions. Your question deals with the funding condition, which reads as follows:

This act shall take effect only if the cost of providing any additional assistant district attorney general, assistant public defender, or other costs associated with the judgeship created by this act are funded by Blount County, Tennessee, and such funding continues for the term of the judgeship created by this act.

2004 Tenn. Priv. Acts ch. 111, § 3. The opinion request suggests the possibility that the presiding judge could assign the new court only civil cases that do not require additional attorney staff.¹ The implication of this arrangement is that additional attorney staff would be unnecessary. Chapter 111 does not address the assignment of cases, but it provides that “[s]ection 4 of the General Sessions Court shall have concurrent jurisdiction with Sections No. 1, No. 2 and No. 3.” 2004 Tenn. Priv. Acts ch. 111, § 1(c). Even if the fourth section were only assigned civil cases, there could still be

¹ Chapter 111, § 3, refers to assistant district attorneys general and assistant public defenders. For convenience, we refer to them collectively as “attorney staff.”

a need for additional attorney staff associated with the new judgeship if manipulation of the fourth section's caseload reduced the civil cases assigned to the other three sections and increased their number of criminal cases. We think the real question is whether Chapter 111 requires Blount County to fund additional attorney staff before adding the fourth court, regardless of need, or whether it requires the county to fund additional attorney staff as they become necessary because of the fourth court. In our opinion, the latter interpretation is the more correct reading of the statute.

As noted above, Section 3 states “[t]his act shall take effect only if the cost of providing *any* additional assistant district attorney general, assistant public defender, *or* other costs associated with the judgeship created by the act are funded by Blount County, Tennessee” (Emphasis added). The use of the word “any” modifying assistant district attorney and assistant public defender makes no sense in this context, except “any” such personnel that may be required. If none are required, there are not “any” that need to be funded. Further, given that the sentence uses the word “or,” we do not think funding for additional attorney staff is automatically required before the judge may assume office. Chapter 111 requires a determination of all the costs associated with a fourth judgeship, and it also requires the county to fund those costs, including additional attorney staff, as needed. But the statute is not itself a determination that additional attorney staff will be needed. As a practical matter, the appropriate county officials should consult on staffing needs with the District Attorney General, the District Public Defender, and the Presiding Judge of the General Sessions Court before approving Chapter 111 and assuming its funding requirements.

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