



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 18, 2023

The Honorable Brandon Ladner
Harrison County Justice Court Judge
Post Office Box 1754
Gulfport, Mississippi 39502

Re: Mississippi Code Annotated Section 25-3-36

Dear Judge Ladner:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. If a justice court judge lives in a county with a population of 190,000 people, and according to the latest federal decennial census of 2020, the population is now 204,000, would that increase the judge's salary from \$51,005 to \$55,559?
2. If the Board of Supervisors approved a raise for themselves, is a justice court judge entitled to the same amount of raise?

Brief Response

1. No. A justice court judge's salary that is based upon county population pursuant to Section 25-3-36(2)(b) would not increase based upon an increase in population. Rather, it is based upon the salary authorized for a justice court judge in that county as of September 30, 2008.
2. If the supervisors receive a salary increase, the justice court judges whose salaries are determined pursuant to Section 25-3-36(2) shall receive a "commensurate increase."

Applicable Law and Discussion

Section 25-3-36 provides, in relevant part:

(2) From and after October 1, 2008, every justice court judge shall receive as full compensation for his or her services, and in lieu of any and all other fees, costs or

compensation heretofore authorized for such justice court judge, an annual salary in an amount that is the greater of the following:

- (a) The amount paid to a member of the board of supervisors in the same county in which the justice court judge presides; or
- (b) One hundred three percent (103%) of the salary authorized under this section *as of September 30, 2008*, for a justice court judge in that county.

If supervisors of a county receive a salary increase, justice court judges whose salary is determined *under this paragraph* shall be paid an amount reflecting a *commensurate increase*.

(Emphasis added). Subsection (2)(b) references the salary scale for justice court judges outlined in Subsection (1), which is based on the population of the county “according to the latest federal decennial census” as of September 30, 2008. Miss. Code Ann. § 25-3-36(1).

The provision granting an increase in justice court judges’ salaries based upon the supervisors’ salary increase applies to all justice court judges whose salaries are determined “under this paragraph,” which refers to all of Subsection (2).

In response to your first question, it is the opinion of this office that based upon the plain language of the statute, justice court judges are not entitled to a raise due to an increase in county population because the salary authorized under Section (2)(b) is set as of September 30, 2008, a specific point in time.

Salaries for members of the boards of supervisors are provided in Section 25-3-13 and are based upon the total assessed valuation of the county. In 2019, the Legislature amended Section 25-3-13 to increase the salaries for supervisors. Laws 2019, Ch. 485 (S.B. 2827) § 4, eff. Jan. 1, 2020. Supervisors’ salaries were again increased in 2022. Laws 2022, Ch. 304 (S.B. 2719) § 1, eff. July 1, 2022. In 2019, this office opined that the increase in salaries for the county boards of supervisors authorized under S.B. 2827 was optional but not mandatory. MS AG Op., *Slover* at *2 (Aug. 9, 2019). “[J]ustice court judges are not entitled to a salary increase unless the board of supervisors increased their salaries as well.” *Id.* at *1. This office has also opined that “it is clear that in subsection (2)(a), the amount paid to a member of the board of supervisors means the amount the supervisors are actually receiving and not the amount of salary that is fixed pursuant to Section 25-3-13.” MS AG Op., *Barbour* at *3 (Nov. 18, 2016) (citation omitted).

Thus, in response to your second question, regardless of whether a justice court judge’s salary is set in accordance with Subsection (2)(a) (“[t]he amount paid to a member of the board of supervisors in the same county in which the justice court judge presides”) or Subsections (1) and (2)(b) (“[o]ne hundred three percent (103%) of the salary authorized under this section *as of September 30, 2008*, for a justice court judge in that county”), if the members of the county board of supervisors actually receive a salary increase, the justice court judges are entitled to a commensurate increase. (Emphasis added). Such salary increase would be effective on the same date as that of the board of supervisors. *Barbour* at *2.

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If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION