

The Honorable Carol Springer
Arizona State Treasurer

February 25, 1999
No. I99-004(R99-008)

Question Presented

Which entity is responsible for paying the salaries of justices of the peace pro tempore: the State or the county in which they are assigned?

Summary Answer

Arizona Revised Statutes Annotated ("A.R.S.") § 22-123 provides that salaries of justices of the peace pro tempore are to be paid entirely by the county in which they are assigned.

Background

Generally, justices of the peace appointed on a temporary basis may be designated as pro tempore. *See* BLACK'S LAW DICTIONARY 1223 (6th ed. 1990) (the term "pro tempore" means "for the time being; temporarily; provisionally"). The appointment of a justice of the peace pro tempore is made by the presiding judge of the superior court of a county "for any precinct of that county where needed in the manner provided by this article subject to the approval of the board of supervisors." A.R.S. § 22-121(A). Justices of the peace pro tempore are ordinarily appointed on a temporary basis when the workloads of regular justices of the peace become too great.

For regularly-elected justices of the peace and those appointed to fill an unexpired term of an elected justice of the peace, the county pays sixty per cent of the compensation and the State pays forty per cent. A.R.S. § 22-117(B). Some county officials apparently are under the impression that the State is likewise obligated to pay forty per cent of the compensation of justices of the peace pro tempore, and have requested such payments from the State Treasurer.

Analysis

Arizona law provides that "[t]he salary of the justice of the peace pro tempore shall be paid by the county wherein the justice of the peace pro tempore is assigned . . ." A.R.S. § 22-123. In designating "the county" as the entity that shall pay the salary of a justice of the peace pro tempore, A.R.S. § 22-123 is unambiguous and no interpretation is needed. *Accord Herberman v. Bergstrom*, 168 Ariz. 587, 589, 816 P.2d 244, 246 (App. 1991) (when a statute's language is clear and leaves no opportunity for interpretation, it must be followed).

When the Legislature desires the salaries of judicial entities be divided between the State and counties it says so expressly. For example, A.R.S. § 22-117 provides that the salary of a justice of the peace (as opposed to a justice of the peace pro tempore) shall be divided 60-40 between the county and the State. Likewise, the Legislature has provided that the salary of a judge pro tempore of

the superior court shall be paid "one-half by the state and one-half by the county to which such judge is assigned." A.R.S. § 12-143(A).⁽¹⁾ Here, A.R.S. § 22-123 is clear and unambiguous; counties must pay the total salary and costs associated with a justice of the peace pro tempore. When statutory language is not ambiguous, the Attorney General must apply the text as written. *See Mid Kansas Fed. Sav. & Loan Ass'n v. Dynamic Dev. Corp.*, 167 Ariz. 122, 128, 804 P.2d 1310, 1316 (1991). The State has neither the statutory responsibility nor the statutory authority to contribute to this county expense.

Conclusion

The express and unambiguous language of A.R.S. § 22-123 leaves no question that the State is not authorized to pay any portion of the salary of a justice of the peace pro tempore.

¹ Also, the State and the county each pay one-half the salary of a regularly-elected judge of the superior court. A.R.S. § 12-128.

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