



ATTORNEY GENERAL OF TEXAS
G R E G A B B O T T

June 15, 2006

The Honorable Carole Keeton Strayhorn
Texas Comptroller of Public Accounts
Post Office Box 13528
Austin, Texas 78711-3528

Opinion No. GA-0437

Re: Maximum salary payable to a district judge
under section 659.012 of the Government Code
(RQ-0419-GA)

Dear Comptroller Strayhorn:

In 2005, during the Second Called Special Session of the Seventy-ninth Legislature, Texas judges received a salary increase. You request our opinion on the lawful maximum amount payable to a state district judge under the provisions of the enacting legislation, House Bill 11.¹

House Bill 11, which was codified at section 659.012 of the Government Code, was effective December 1, 2005, and provides that

a judge of a district court is entitled to an annual salary from the state of at least \$125,000, except that the combined salary of a district judge from state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the salary provided for a justice of a court of appeals other than a chief justice[.]

TEX. GOV'T CODE ANN. § 659.012(a)(1) (Vernon Supp. 2005); Act of Aug. 9, 2005, 79th Leg., 2d C.S., ch. 3, § 1, 2005 Tex. Gen. Laws 34, 35. In addition to the salary provided by the state pursuant to section 659.012, district judges may also receive additional compensation from counties for extrajudicial services they render to their county.² See TEX. GOV'T CODE ANN. § 32.001 (Vernon Supp. 2005). A similar scheme provides for the salary of justices of the courts of appeal other than a chief justice:

¹Letter from Honorable Carole Keeton Strayhorn, Texas Comptroller of Public Accounts, to Honorable Greg Abbott, Attorney General of Texas, at 1 (Nov. 15, 2005) (on file with the Opinion Committee, *also available at* <http://www.oag.state.tx.us>).

²For instance, a district judge may serve as a member of the county juvenile board, *see* TEX. GOV'T CODE ANN. § 24.306 (Vernon 2004), and establish community supervision and corrections departments. *See id.* § 76.002(a) (Vernon Supp. 2005).

a justice of a court of appeals other than the chief justice is entitled to an annual salary from the state that is equal to 110 percent of the salary of a district judge, except that the combined salary of a justice of the court of appeals other than the chief justice from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the salary provided for a justice of the supreme court.

Id. § 659.012(a)(2). Chapter 31 of the Government Code authorizes counties to pay additional compensation to justices of the courts of appeal. *See id.* § 31.001.

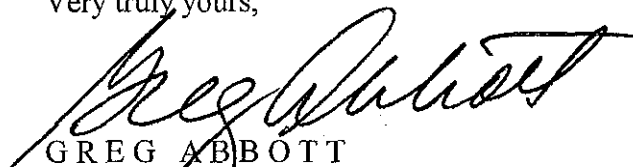
To answer your question we must determine what “salary provided for a justice of a court of appeals” means. In construing section 659.012, we must give effect to the legislature’s intent. *See* TEX. GOV’T CODE ANN. §§ 311.021, .023 (Vernon 2005); *Albertson’s Inc. v. Sinclair*, 984 S.W.2d 958, 960 (Tex. 1999). When interpreting a statute, courts look first to the literal text of the statute for its meaning and ordinarily give effect to that plain meaning. *See Sinclair*, 984 S.W.2d at 960; *Boykin v. State*, 818 S.W.2d 782, 785 (Tex. Crim. App. 1991). A court will look beyond the literal language of the statute only when “the plain language of [the] statute would lead to absurd results or if the language is . . . ambiguous.” *Ex parte Russell*, 60 S.W.3d 875, 876 (Tex. Crim. App. 2001) (quoting *Boykin*, 818 S.W.2d at 785–86).

Under section 659.012, the salary of a district judge is subject to the limitation that the judge’s combined state and county salary may not exceed an “amount that is \$5,000 less than *the salary provided for a justice of a court of appeals other than a chief justice.*” TEX. GOV’T CODE ANN. § 659.012(a)(1) (Vernon Supp. 2005) (emphasis added). The maximum salary provided for a justice of a court of appeals other than a chief justice is “\$5,000 less than the salary provided for [an associate] justice of the supreme court.” *Id.* § 659.012(a)(2). The statute provides that the fixed salary for associate supreme court justices is “120 percent of the salary of a district judge,” or \$150,000. *Id.* § 659.012(a)(3). Therefore the maximum salary of an appellate court justice is \$145,000. *See id.* § 659.012(a)(2), (“the combined salary of a justice of the court of appeals . . . may not exceed the amount that is \$5,000 less than the salary provided for a justice of the supreme court”). Accordingly, the maximum salary of a district court judge, which is limited to \$5,000 less than the salary provided for a justice of a court of appeals other than a chief justice, is \$140,000. *See id.* § 659.012(a)(1) (“the combined salary of a district judge . . . may not exceed the amount that is \$5,000 less than the salary provided for a justice of a court of appeals”).

S U M M A R Y

Under section 659.012 of the Government Code the maximum lawful amount payable to a state district judge is \$140,000.

Very truly yours,



GREG ABBOTT
Attorney General of Texas

ELLEN L. WITT
Deputy Attorney General for Legal Counsel

NANCY S. FULLER
Chair, Opinion Committee

Charlotte M. Harper
Assistant Attorney General, Opinion Committee