



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2025-123

December 12, 2025

Mr. S. Kyle Hunter
Prosecuting Attorney
Eleventh-West Judicial District
101 East Barraque Street, Suite 201
Pine Bluff, Arkansas 71601

Dear Mr. Hunter:

I am writing in response to your request for my opinion on the constitutionality of Act 24 of 2025.

You report that under Act 24 of 2025, a county judge was not paid for eleven pay periods until the quorum court passed an appropriation ordinance in June 2025. Consequently, that county judge filed a claim in the county court for payment and, “at a hearing he presided over, issued an Order directing the county clerk to pay” his claim. You note that at the hearing, the county judge argued that Act 24 of 2025 is unconstitutional because it violates Section 5 of Amendment 55 to the Arkansas Constitution.

Against this background, you ask the following questions:

1. Is Act 24 of 2025 in conflict with the Arkansas Constitution as it relates to not paying the county judge and justices of the peace until an annual appropriation ordinance is passed by the Quorum Court?
2. If withholding pay as required by Act 24 of 2025 is constitutional, should the county judge and justices of the peace be retroactively paid to the first of the year after passage of the budget ordinance?

RESPONSE

A reading of Act 24 of 2025 that prohibits back pay would render the act unconstitutional under Amendment 55, § 5, because it would decrease the compensation of the county judge during his current term. An alternative but permissible reading of the act does not decrease compensation. Because one interpretation of Act 24 of 2025 would render the act unconstitutional, while another

BOB R. BROOKS JR. JUSTICE BUILDING
101 WEST CAPITOL AVENUE
LITTLE ROCK, ARKANSAS 72201

would not, one must opt for the constitutional reading. Therefore, the county judge and justices of the peace are entitled to back pay once an annual appropriation ordinance is adopted.

DISCUSSION

Before the end of each fiscal year, a county must enact an annual appropriation ordinance for the next year's county expenses.¹ Act 24 of 2025 imposes penalties for failing to comply.

If a quorum court fails to enact an annual appropriation by January 1, the county judge does not receive a salary, and the justices of the peace do not receive per diem compensation.² Meanwhile, the annual appropriation ordinance from the previous year is automatically "readopted by operation" of law.³ The salaries of other county employees continue under the previous year's appropriation until "a new annual appropriation ordinance is adopted."⁴

But once the quorum court enacts an appropriation, the county judge and justices of the peace begin receiving the money appropriated for them.⁵ The question is whether the county judge and justices of the peace are entitled to back pay for the period before the ordinance was adopted. The legal analysis necessary to answer that question differs between the county judge and justices of the peace, although both end up with the same result.

1. County judge. In my opinion, two interpretations of the act are possible as applied to county judges, but only one is the best reading. Under one reading, pay is cut off until the ordinance is passed, and no back pay is authorized. Yet under this interpretation, the county judge's overall compensation would be reduced, violating Amendment 55, § 5, of the Arkansas Constitution: "Compensation [of a county officer] may not be decreased during a current term." Thus, interpreting the act to prohibit back pay for county judges would render the act unconstitutional under Amendment 55.

An alternative reading emphasizes the word "until" in the phrase "shall not be paid until an annual appropriation ordinance is adopted." Under this interpretation, that year's salary cannot be paid "until" the ordinance is adopted, at which point the county judge receives the salary set in that year's appropriation ordinance, including back pay from the date the ordinance became effective back to the first day of that fiscal year.⁶ This reading avoids any constitutional conflict because it does not reduce a county officer's compensation during the current term.

¹ A.C.A. § 14-14-904(b)(1)(A)(ii)(a).

² Act 24 of 2025, § 1, as codified at A.C.A. § 14-14-904(b)(1)(A)(ii)(c)(3).

³ *Id.* at §§ 1, 4, as codified at A.C.A. §§ 14-14-904(b)(1)(A)(ii)(c)(1), 14-58-202(b)(1).

⁴ *Id.* at § 1, as codified at A.C.A. § 14-14-904(b)(1)(A)(ii)(c)(2).

⁵ *Id.*, as codified at A.C.A. § 14-14-904(b).

⁶ *Id.* at §2, as codified at A.C.A. § 14-14-1204(c)(3).

A statute must be “interpreted in a way that avoids placing its constitutionality in doubt.”⁷ Because one interpretation of Act 24 of 2025 would render the act unconstitutional, while another would not, the latter must prevail.⁸ Accordingly, the county judge is entitled to back pay once the annual appropriation ordinance is adopted.

2. Justices of the peace. Unlike county judges, Justices of the peace are not “county officers” under Amendment 55.⁹ Amendment 55, § 5, distinguishes between county officers—whose compensation is set within statutory ranges by the quorum court—and quorum court members, whose per diem compensation is fixed by law by the General Assembly. Therefore, the above analysis on reducing pay in violation of Amendment 55 that applies to county judges does not apply to justices of the peace.

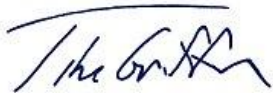
Even so, the same statutory language—“shall not be paid *until* an annual appropriation ordinance is adopted”—applies to both county judges and justices of the peace.¹⁰ It would be illogical to interpret the same phrase as allowing back pay for county judges while denying it for justices of the peace.¹¹ Therefore, based on the plain language of the act and principles of statutory construction, justices of the peace are also owed back pay.

* * *

In sum, under Act 24 of 2025, both the county judge and justices of the peace are owed back pay once the annual appropriation ordinance is adopted.

Assistant Attorney General William R. Olson prepared this opinion, which I hereby approve.

Sincerely,



TIM GRIFFIN
Attorney General

⁷ Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 247–51 (2012).

⁸ See, e.g., *id.*

⁹ See Ark. Att’y Gen. Op. 2003-059.

¹⁰ Act 24 of 2025, §3, as codified at A.C.A. § 14-14-1205(a)(1)(C) (emphasis added).

¹¹ See Scalia & Garner, *supra* note 7, at 170 (“A word or phrase is presumed to bear the same meaning throughout a text; a material variation in terms suggests a variation in meaning.”).