

OPINION NO. 75-091

Syllabus:

R.C. 1901.11 requires that the annual compensation to be paid municipal court judges, designated as "full-time" pursuant to R.C. 1901.08 is computed by adding eighteen cents per capita - for the population of the appropriate territory - to \$21,000.00, but by also restricting that annual compensation to the lesser of (A) the amount of compensation of the judge of the appropriate county common pleas court, reduced by \$2,000.00, or (B) \$30,000.00.

To: Joseph Loha, Jefferson County Pros. Atty., Steubenville, Ohio
By: William J. Brown, Attorney General, December 18, 1975

I have before me your request for my opinion concerning the amount of compensation to be paid to a municipal court judge.

In your request you stated that the office in question is, in fact, one designated as "full-time" pursuant to R.C. 1901.08.

R.C. 1901.11 is the statutory provision which deals with the compensation of judges. In pertinent part it provides as follows:

"Judges designated as full-time judges by section 1901.08 of the Revised Code and all judges of territories having a population of fifty thousand regardless of designation are subject to section 4705.01 of the Revised Code and shall receive as compensation twenty-one thousand dollars per annum, plus an amount equal to eighteen cents per capita for the population of the territory in which he resided when elected or appointed, as ascertained by the latest federal census of the United States. The compensation of any municipal judge shall not be more than two thousand dollars per annum less than the statutory compensation of a judge of the court of common pleas in the county in which the municipal court is situated, or thirty thousand dollars, whichever is less. . . ."

You have stated in your request that, pursuant to the first sentence quoted above, the salary for the office in question has been computed to be \$26,800.00. The issue raised in your request deals with the emphasized language quoted above. Your question is whether that language is a provision for compensation different than that computed pursuant to the first sentence.

As developed below it is my opinion that the emphasized language provides a ceiling on the amount computed for compen-

sation under the first sentence and is not, instead, a second method of computation as might conflict with provisions in the first sentence.

To the extent that the emphasized language quoted above could be characterized as awkward and therefore unclear, it is only appropriate that any interpretation of it take into consideration the object which the legislature sought to attain based upon a presumption that all of the language employed by the legislature was intended to be effective. See R.C. 1.47 and R.C. 1.49.

Note that the first sentence quoted above begins with the word "judges" and is all inclusive for those designated as full time under R.C. 1901.08. Note also that the emphasized language begins by stating that compensation of any municipal judge "shall not be more than" certain specified amounts. Accordingly, the apparent legislative intent was, in the first quoted sentence, to establish a rule applicable to designated full time judges and, in the second sentence, to set up a limiting provision which relates to all municipal judges designated under R.C. 1901.08, and therefore, imposes a maximum on the amount of compensation which may be paid, notwithstanding the language elsewhere in R.C. 1901.08.

The conclusion suggested by your question is that the first sentence should be ignored as to full-time municipal judges and that, instead, the emphasized language should be viewed as providing two alternative amounts, with payment dependent upon which of those two amounts is the lesser.

That suggested construction, as indicated above, requires one to ignore the provisions clearly set out in the first sentence quoted above. Accordingly, that construction is unacceptable. Further, the suggested construction is based on the assumption that the emphasized language is confusing. There is, however, no confusion once one realizes that the language was designed to place a limitation on the compensation provided for in the first sentence, and not an alternative to such amount.

Accordingly, it is my opinion and you are so advised that R.C. 1901.11 requires that the annual compensation to be paid municipal court judges, designated as "full-time" pursuant to R.C. 1901.08 is computed by adding eighteen cents per capita - for the population of the appropriate territory - to \$21,000.00, but by also restricting that annual compensation to the lesser of (A) the amount of compensation of the judge of the appropriate county common pleas court, reduced by \$2,000.00, or (B) \$30,000.00.