

OPINION NO. 1491**Syllabus:**

The city council of the city in which a municipal court is located is the sole authority under Section 1901.11, Revised Code, to prescribe additional compensation for a judge of that court, notwithstanding the territorial jurisdiction of the court extends beyond the territorial boundaries of the city.

To: Dennis J. Callahan, Lawrence County Pros. Atty., Ironton, Ohio
By: William B. Saxbe, Attorney General, October 29, 1964

I have your request for my opinion upon the question propounded to you by letter of the Auditor of Lawrence County which letter reads as follows:

"Section 1901.11, Revised Code, states

that the salary of a full time judge of a Municipal Court shall be \$7,500.00 per year plus three cents (3¢) per capita of the population of the court district, but the legislative authority may prescribe additional compensation.

"The Council of the City of Ironton has recently voted a substantial increase in the salary of the Municipal Judge of the Ironton Municipal Court and, that I may be fully informed as to the responsibility of my office in connection with this action, I respectfully request your opinion on the following question:

"Who constitutes the legislative authority in the Ironton Municipal Court district? Is it the City Council acting alone or is it the City Council and the Board of County Commissioners acting jointly?"

"This question is prompted by the following facts:

"1. The Ironton Municipal Court has jurisdiction over six townships and only a part of two of these townships, Hamilton and Upper, lies within the corporation limits of the City of Ironton. The other townships are quite a distance from the city limits.

"2. The total population of the Court District is 29,504, of which 15,745 reside in the City of Ironton and 13,759, (almost 50%) reside outside the City limits. These 13,759 persons do not, of course, have a voice in the selection of members of the City Council, therefore, I am asking your opinion because there is a serious doubt in my mind as to the authority of City Council to legislate for these 13,759 persons, without the concurrence of the Board of County Commissioners, since they do not have a representative voice in the affairs of Council."

By Section 1901.08, Revised Code, provision is made for one full-time judge in the Ironton Municipal Court.

The following is quoted in part from Section 1901.11, Revised Code:

"* * *Judges designated as full-time judges by section 1901.08 of the Revised Code* * *shall receive as compensation seven thousand five hundred dollars per annum, plus an amount equal to three cents per capita for the first fifty thousand of the population of the territory;* * *but the legislative authority may prescribe additional compensation.
* * *

"* * *

* * *

* * *"

Section 1901.03, Revised Code, reads as follows:

"As used in sections 1901.04 to 1901.38, inclusive, of the Revised Code:

"(A) 'Territory' means the geographical areas within which municipal courts have jurisdiction as provided in sections 1901.01 and 1901.02 of the Revised Code.

"(B) 'Legislative authority,' 'chief executive,' 'city treasurer,' and 'city treasury' have reference to the city in which the court is located."

It is thus obvious that, even though the territory within which the Municipal Court of Ironton has jurisdiction includes townships not within the corporate limits of the City of Ironton, such additional salary of the municipal judge of that court, as provided in such Section 1901.11, Revised Code, may only be authorized by the City Council of the City of Ironton without any concurrence or approval of the Board of County Commissioners.

In Opinion No. 3697, Opinions of the Attorney General for 1954, the then Attorney General had under consideration a question regarding the payment of the salary of the judge of the Municipal Court of Port Clinton. The Port Clinton Municipal Court includes the entire county excluding one township. In the course of the opinion, at page 176, it was concluded:

"Whether or not the legislative scheme of requiring a county to pay moneys where the amount of such payment is determined in part at least by the legislative authority of a city over which no county officer has any control, is wise or unwise is a matter of policy which must be and has been determined by the legislative branch of our government. I believe it clear, however, that the plain language of Section 1901.11, Revised Code, does require such payment."

I am in accord with this conclusion as indicated above.

In specific answer to your question therefore, it is my opinion and you are advised that the city council of the city in which a municipal court is located is the sole authority under Section 1901.11, Revised Code, to prescribe additional compensation for a judge of that court, notwithstanding the territorial jurisdiction of the court extends beyond the territorial boundaries of the city.