



# STATE OF ARKANSAS

Office of the Attorney General

Winston Bryant  
Attorney General

Telephone  
(501) 682-2007

Opinion No. 94-136

May 31, 1994

The Honorable David S. Clinger  
Prosecuting Attorney  
Nineteenth Judicial District  
Benton County Courthouse  
100 Northeast "A" Street  
Bentonville, AR 72712

Dear Mr. Clinger:

This is in response to your request for an opinion concerning the minimum pay for Quorum Court members. Specifically you ask whether Act 954, which sets the minimum pay per meeting at \$95.00, is mandatory.

Act 954, passed by the General Assembly in 1993, is codified at section 14-14-1205 of the Arkansas Code. The applicable portion is as follows:

The per diem compensation of justices during any one (1) calendar year shall be not less than ninety-five dollars (\$95.00) per diem for each regular meeting nor exceed five thousand dollars (\$5,000) in counties having a population of less than two hundred thousand (200,000) and shall not exceed seven thousand dollars (\$7,000) in counties having a population of two hundred thousand (200,000) or more.

A.C.A. § 14-14-1205 (Cum. Supp. 1993).

The statute states that justices of the peace "shall" be paid at least \$95.00 for each regular meeting. The answer to your question, therefore, depends upon the meaning of the word "shall."

The first rule in construing the meaning of a statute is to construe it just as it reads, giving words their ordinary and usually accepted meaning in common usage. Bolden v. Watt, 290 Ark. 343, 719 S.W.2d 428 (1986). See also A.C.A. § 14-14-103(a) (stating that "[w]ords and phrases used in this chapter shall be construed according to their ordinary usage in the English language"). If a statute is clear and unambiguous on its face, it is inappropriate to resort to extrinsic matter, because the legislative intent must be discerned from the language employed. Mourot v. Ark. Bd. of Dispensing Opticians, 285 Ark. 128, 685 S.W.2d 502 (1985). In addition, it has been stated that the word "shall" when used in a statute, means that the legislature intended mandatory compliance with the statute unless such interpretation would lead to absurd results. Matter of Bailey, 299 Ark. 352, 771 S.W.2d 779 (1989).

It is my opinion that the words "shall be not less than" are unambiguous and signify that the statute is mandatory.

Your second question inquires about the consequences of not raising the pay to \$95.00 per meeting. You state that the Benton County Quorum Court members are paid \$75.00 per meeting. The pay must be raised to be in compliance with state law. There are no well defined consequences of such non-compliance; the statute does not provide any penalties for non-compliance. It should be noted, however, that the non-compliance may be noted in the audit performed by the Division of Local Affairs and Audits of the Division of Legislative Audit. See A.C.A. § 10-4-202 (Cum. Supp. 1993).

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Elana C. Wills.

Sincerely,



WINSTON BRYANT  
Attorney General

WB/ddm:cyh