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January 18, 1961

Honorable Frank A. Bennett
State Senator
State Capitol Building
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Re: Interpretation of A.R.S.
§11-424 relative to salary
of Justice of the Peace.

The apparent legislative intent of A.R.S. §11-424 under its present form appears to be to give a Justice of the Peace holding office in a precinct with 1,000 registered voters or less a maximum salary of \$3,600.00 per year.

Dear Mr. Bennett:

The fixing of the salaries of Justices of the Peace in a precinct having less than 1,000 registered voters is provided for in Arizona Revised Statutes §11-424, subsection (A) which reads:

"A. At the regular June meeting of the several boards of supervisors preceeding a general election, the boards shall fix the salaries of all precinct officers, except those justices of the peace and constables whose salaries are specifically fixed by subsection B of this section, for the two-year period commencing on the first day of the following January."

The precinct officers in justice precincts referred to above are named in A.R.S. §22-102 which provides:

"The officers of justice precincts shall be a justice of the peace and a constable, who shall be elected by the qualified electors of the precinct at the general election for state and county officers for terms of four years each."

The salaries of justices of the peace in precincts having more than 1,000 registered voters are provided for in A.R.S. §11-424,

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subsection (B). A formula has been set up in this part of the statute which provides for an automatic increase or decrease of the salary of the justice of the peace falling within certain categories dependent upon the number of registered voters within his particular justice precinct. One of the purposes of this provision is to set forth certain mandatory salaries for these justices of the peace, and to remove from the various Boards of Supervisors the power to exercise their discretion as to the amount of compensation to be received by these officers.

Another important purpose for such an arrangement must have been that the legislatures in drafting these provisions wanted to make the salary of justices of the peace commensurate with their duties and responsibilities. It is logical to assume that a justice of the peace in a precinct having a greater number of registered voters would very likely have a corresponding increase in the volume of work he must perform. Hence, the statute provides a salary scale that increases the compensation to be received by a justice of the peace in proportion to a given number of registered voters within his justice precinct.

Subsection (A) of A.R.S. §11-424 quoted above provides that at the regular June meeting of the several Boards of Supervisors preceding a general election, the Board will set the salaries of a justice of the peace having 1,000 registered voters or less. That is, as has been previously held by this office, in our Opinion 52-109, salaries of justice of the peace in such precincts are fixed by the Board of Supervisors at an amount which is within the reasonable description of the Board.

You have asked this office for an interpretation of A.R.S. §11-424 and whether the intent of the Legislature was not to set a minimum salary of \$3,600.00 for this category of justice of the peace.

When these various statutory provisions are considered as a whole, it is not difficult to arrive at their true intent and meaning. It is quite clear that the intent of the Legislature must have been for the Board of Supervisors in fixing the salaries of the justice of the peace in precincts having 1,000 registered voters or less, to follow the general formula which provides a higher salary to be paid a justice of the peace holding office within a precinct having a larger number of registered voters. Since the salary scale set forth in this statute provides a minimum base of \$3,600.00 to be paid a justice of the peace in the first category, it would follow that the proper interpretation of subsection (A) A.R.S. §11-424 is that the maximum salary of a justice of the peace in a precinct having 1,000 registered voters or less should not exceed this figure.

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Therefore, it is the opinion of the Department of Law in regard to the apparent legislative intent, that by providing a salary scale commensurate with the volume of work based on the number of its registered voters, that the Board of Supervisors in fixing the salary of the justice of the peace holding office in precincts having 1,000 registered voters or less, would be guided by this formula and not surpass the minimum salary figure of the category immediately preceding them which is presently set at \$3,600.00 per year.

Very truly yours,

ROBERT W. PICKRELL
The Attorney General

C. LAWRENCE HUERTA
Assistant Attorney General

CLH:ec/dd

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