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August 14, 2003
Opinion Number 03-0305

10 – CLERKS OF COURT – Compensation & Fees;
Powers & Duties; General

Honorable Jon Gegenheimer, President
Louisiana Clerks of Court Retirement
and Relief Fund
11745 Bricksome Avenue, Suite B-1
Baton Rouge, Louisiana 70816

Act 157 of the 2003 Regular Legislative Session provides for “annual compensation” for Clerks of Court, meaning the salary increases contemplated thereby can be established to be effective from January 1, 2003 through the end of the 2003 calendar year and do not have to be prorated from the effective date of the act.

Dear Mr. Gegenheimer:

Reference is made to your letter of August 5, 2003, wherein you requested an opinion of this office concerning the effective date of salary increases authorized for Clerks of Court in Act 157 of the 2003 Regular Legislative Session (“Act 157”). Act 157 amends LSA-R.S- 13:782(A)(1), regarding the maximum annual compensation authorized for the clerks of the various district courts, and becomes effective on August 15, 2003 in accordance with La. Const. Art. III, Sec. 19. Specifically, you inquire:

“Is the salary increase retroactive to January 1, 2003 indicating that “annual compensation” means January to December? Opinion 78-889 and 92-595A, given to the Assessors regarding a similar act, would indicate that it does.”

I would also direct your attention to Attorney General’s Opinion No. 82-2, concerning Act 716 of 1980, which also increased the “annual compensation” of the various Clerks of Court. Therein, we stated:

“This office has consistently held that where the salary increase is for “annual compensation”, meaning from January 1 to December 31 of each calendar year, and there are no restrictive provisions requiring that such increases be prorated to the end of the year from the effective date of the statute, the increase should be given as full annual compensation. (See Opinion No. 76-1225 dated October 8, 1976 and Opinion No. 78-889 dated July 21, 1978) As such, the increased “annual compensation” provided by Act 716 of 1980 for clerks of court was effective for the entire calendar year of 1980. Therefore, the salary must be computed back to January 1, 1980.”

In accordance with the reasoning expressed in a consistent line of Attorney General's opinions, including Attorney General's Opinions Nos. 92-595A, 82-2 and 78-889, it is the opinion of this office that Act 157 provides for "annual compensation" for Clerks of Court, meaning the salary increases contemplated thereby can be established to be effective from January 1, 2003 through the end of the 2003 calendar year and do not have to be prorated from the effective date of the act. See also: Attorney General's Opinion No. 76-1225 and opinions cited therein, as well as Opinions of the Attorney General 1944-46, p. 21.

We trust the foregoing to be of assistance. Should you have any questions regarding this matter, please do not hesitate to contact this office.

Yours very truly,

RICHARD P. IEYOUB
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BY: 
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