

OFFICERS: County treasurer of county adopting township
COUNTIES: organization to receive salary of not less
FEES AND SALARIES: than \$100 per month. Receives no compensation
as ex officio collector where county collector
has portion of term of office remaining.

June 7, 1951



6-8-51

Honorable C. Dudley Brandom
Prosecuting Attorney
Daviness County
Gallatin, Missouri

Dear Sir:

Your letter at hand requesting an opinion of this department, which, in part, reads:

"Daviness County has reverted from County Organization form of County Government to Township Organization form of County Government. Under our present population of 11,096 persons, the County Treasurer under County Organization form of government would be entitled to receive \$125.00 salary. The same Treasurer under Township Organization may receive not less than \$100.00 salary, said salary to be fixed by the County Court. In addition to this, ordinarily the Township Organization County Treasurer receives a percentage of the tax collections, as provided in Section 54.320; but as our County Collector will collect all taxes for the next four years, none of this revenue and none of the responsibility and duties for such collection goes through the Treasurer's Office.

"Consequently, can you inform me, on behalf of the County Court, the amount the County Court is authorized to pay the Township Organization County Treasurer?"

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In reading your letter it appears that Daviess County is a county possessing township organization form of county government. It has been recently organized under this form of government. The question which you have presented concerns the amount of compensation that the County Court of Daviess County can now pay the county treasurer who was elected to that office prior to the time that the county was organized under township form of government.

In considering your question certain appropriate sections of the Revised Statutes of 1949 will be cited.

Section 65.030 provides for the manner of petitioning for and voting on the proposition of adopting township organization form of government in counties of the third and fourth class. That section further provides as follows:

"If a majority of the electors voting upon the proposition shall vote for the adoption thereof the township organization form of county government shall be declared to have been adopted; provided, that counties adopting township organization shall be subject to and governed by the provisions of the law relating to township organization on and after the last Tuesday in March next succeeding the election at which such township organization was adopted."

From the above-quoted portion of the statute it appears that counties adopting township organization become subject to and are governed by all provisions of law relating to township organization as of the time stated in the statute. Consequently, we must look to other statutes relating to township organization counties which also provide for the manner of paying the county treasurers of said counties, for it is such statutes which shall govern in determining the compensation of a county treasurer in a county under township organization.

Section 54.280 provides that the county treasurer of counties having adopted township organization shall also be the ex officio collector. However, in regard to a county which has adopted township organization and the county collector elected prior to the adoption of said form of government still has some of his term remaining, the county treasurer of such county would not immediately perform the duties imposed upon him as ex officio collector, for Section 65.600, in part, provides:

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"In any county in this state which may hereafter adopt township organization, the person holding the office of the collector of the revenue and the person holding the office of county assessor in such county, at the time in March when township organization becomes effective in such county, shall continue to hold his office and exercise all the functions and receive all the fees and emoluments thereof until the time at which his term of office would have expired had such county not adopted township organization, and, except as herein otherwise provided, he shall perform the same duties and be subject to the same requirements and liabilities as in counties not under township organization."

Section 54.320, which provides for the compensation of the county treasurer and ex officio collector in counties adopting township organization, reads as follows:

"The county treasurer in counties of the third class adopting township organization shall be allowed a salary of not less than one hundred dollars per month by the county court to be paid as at present provided by law; the ex officio collector for collecting and paying over the same shall be allowed a commission of three per cent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes; provided, he shall receive nothing for paying over money to his successor in office."

It appears that the above section is severable in providing for the compensation of the treasurer and of the ex officio collector. That is to say, the statute first provides for the minimum compensation that the county court is authorized to pay the county treasurer in counties adopting township organization, the same being not less than one hundred dollars per month. Thereafter, the statute provides for the manner of compensating the ex officio collector of counties adopting township organization, and it is noted that the ex officio collector receiving

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compensation is dependent upon his collecting and paying over certain taxes specified in the statute.

However, in counties such as Daviess County which have adopted township organization, and where the county collector elected prior to the adoption of said form of government still has a portion of his term of office remaining, Section 54.320, supra, must be harmoniously construed with Section 65.600, supra, which also has application to the performance of duties and the payment of compensation to the collector of a county under township organization. In this connection it has been stated by the Supreme Court of Missouri in State v. Naylor, 40 S.W. (2d) 1079, l.c. 1084:

"We do not lose sight of the fact that all statutes that may be applicable must be read and construed together and, if possible, harmonized. * * *"

Therefore, construing together Sections 54.320 and 65.600, supra, the County Treasurer of Daviess County would not now receive any compensation as ex officio collector. However, as Treasurer of Daviess County he would be entitled to receive compensation in the manner provided for by statute relating to counties under township organization, to wit, Section 54.320. Thus, it would follow that the County Court of Daviess County would be entitled to pay to the county treasurer of said county a salary of not less than one hundred dollars per month.

CONCLUSION

In the premises, it is the opinion of this department that the County Treasurer of Daviess County should be compensated in the manner provided by law for counties under township organization and, therefore, should be paid by the county court a salary of not less than one hundred dollars per month. It is further concluded that the County Treasurer of Daviess County is not now entitled to receive any compensation as ex officio collector inasmuch as the county collector of said county, who was elected prior to the adoption of township organization in the county, still has a portion of his term of office remaining and by law performs the duty of collecting the taxes and is entitled to the emoluments thereof until the time his term of office expires.

Respectfully submitted,

APPROVED:



J. E. TAYLOR
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