

COUNTY ASSESSOR:
COUNTY JUDGES:

An assessor in a county whose population is less than forty thousand need not consolidate all lands owned by one person in a square or block into one tract, lot or call; a county judge in a county of the third class must actually be present and attend court to be compensated therefor.



November 27, 1951

11-27-51

Honorable Elton A. Skinner
Prosecuting Attorney of
Howard County
Fayette, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this department. Your request reads as follows:

"1. Must the county assessor of a county of the third class having a population of less than twelve thousand consolidate all lands owned by one person in a square or block into one tract, lot or call in making assessment lists when such county has not submitted the question to a vote of the people as provided in Sections 137.225 and 137.230 R.S. Mo. 1949?

"2. Must a county court judge actually be present and attend court to be compensated therefor when such court is in session?"

The provisions relating to the assessment of property are found in Chapter 137, RSMo 1949. Section 137.215, with reference to your question, provides in part as follows:

"* * *The assessor shall consolidate all lands owned by one person in a section, and all town lots owned by one person in

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a square or block, into one tract, lot or call, when it is practicable; * * *."

Section 137.225, RSMo 1949, provides:

"* * *The assessor shall consolidate all lands owned by one person in a square or block into one tract, lot or call, * * *."

Section 137.230 RSMo 1949, exempts counties of less than forty thousand population from the provisions of Section 137.215 to 137.225, as follows:

"* * *nor shall the provisions of sections 137.215 to 137.225 apply to counties having a less population than forty thousand, unless a majority of the voters in any such county shall elect to adopt its provisions at a general election, upon the question being ordered to be submitted by the county court; * * *."

We have searched the law relating to the assessment of property and have found no provisions other than those quoted which would require such a consolidation.

Assuming the constitutional validity of this provision, we are of the opinion that the Assessor of Howard County (a county of less than forty thousand) need not consolidate lands under the provisions of Sections 137.215 and 137.225, since such sections are inapplicable unless adopted by a vote of the people as provided in this section.

You next inquire whether a county judge in a county of the third class must actually be present and attend court in order to receive compensation as provided by law.

Section 49.110, RSMo 1949, provides for the compensation of county judges in counties of the third class as follows:

"In all counties of the third class in this state, the judges of the county court shall receive for their services the sum of ten dollars per day for each of the first five days in any month that

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they are necessarily engaged in holding court and shall receive five dollars per day for each additional day in any month that they may be necessarily engaged in holding court, and shall receive five cents per mile for each mile necessarily traveled in going to and returning from the place of holding county court. The per diem compensation herein fixed shall be paid at the end of each month and the mileage compensation shall be paid at the end of each month on presentation of a bill, by each of the respective county judges setting forth the number of miles necessarily traveled; provided, however, that this increase in compensation shall not become effective during any county judge's present term of office."

It is a general rule of statutory construction that a statute fixing the compensation of public officers must be strictly construed as against the officer. This rule is stated in the case of Nodaway County v. Kidder, 129 S. W. (2d) 857, as follows:

"The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a compensation therefor is provided by statute. If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too must be strictly construed as against the officer. * * *"

This section is clear and unambiguous and applying the rule quoted above, that a statute fixing the compensation of public officers must be strictly construed as against the officer, we are of the opinion that a county judge must be actually present and engaged in holding court in order to be compensated therefor.

CONCLUSION

Therefore, it is the opinion of this department, that an assessor in a county whose population is less than forty thousand

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need not consolidate all lands owned by one person in a square or block into one tract, lot or call.

We are further of the opinion that a county judge in a county of the third class must actually be present and attend court to be compensated therefor.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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