

COUNTIES:
COUNTY INSURANCE:
COUNTY OFFICIALS:
COUNTY SURVEYOR:
HEALTH INSURANCE:
INSURANCE:

A county which provides health insurance to some of its elected officials is not required to provide health insurance to the county surveyor.

April 5, 1989

OPINION NO. 62-89

The Honorable Danny Staples
Senator, District 20
State Capitol Building, Room 418
Jefferson City, Missouri 65101



Dear Senator Staples:

This opinion is in response to your question asking:

If a county provides health insurance to any of its elected officials, does the county have to provide health insurance to all the elected officials of the county?

Your opinion request states that the question arises because in many instances county surveyors are omitted from the coverage of the insurance program. Your opinion request refers to Section 67.150, RSMo 1986.¹

Section 67.150, RSMo 1986, provides:

67.150. Insurance for elected officials and employees, political subdivision may contribute--contracting procedure.--1. The governing body of any political subdivision may utilize the revenues and other available funds of the subdivision, as a part of the compensation of the elected officials and employees of the subdivision, to contribute to the cost of a plan, including a plan underwritten by insurance, for furnishing all or part of hospitalization or medical expenses, life insurance or similar benefits for the subdivision's elected officials and employees.

2. No contract shall be entered into by the governing body of the political

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subdivision to purchase any insurance policy or policies pursuant to the terms of this section unless the contract is submitted to competitive bidding at least every three years and the contract is awarded to the lowest and best bidder.

From the use of the word "may," it is apparent that it is discretionary with the county commission as to whether the county will exercise the authority granted in the statute to obtain health insurance for the county officials and employees. "It has long been the rule that the word 'may' in a statute, unless the contrary is otherwise indicated therein, is generally held to be permissive, not mandatory." Bloom v. Missouri Board for Architects, Professional Engineers and Land Surveyors, 474 S.W.2d 861, 864 (St.L.Ct.App. 1971).

There is nothing in the language of Section 67.150 which addresses the question of whether the county commission is authorized to provide insurance coverage to some officials but not others. An examination of the constitution and statutes of Missouri reveals no provision which requires all county officials to be provided with health insurance. In fact, distinctions between employees of political subdivisions in regard to the provision of compensation have been upheld. If the classification is "based on reason, even a poor one, and treats all persons similarly situated alike, there is no constitutional violation And classifications according to occupations are reasonable and proper." [Citations omitted.] State ex rel. Dreer v. Public School Retirement System of City of St. Louis, 519 S.W.2d 290, 298 (Mo. 1975); accord, Elam v. Waynesville R-VI School District of Pulaski County, 676 S.W.2d 880 (Mo.App. 1984).

According to these principles of law, whether it is legally permissible to classify a particular county official for health insurance purposes differently than the other county officials depends on the particular facts in each instance. County surveyors differ from most other county officials in that the county surveyor has no statutory compensation. Section 60.100, RSMo 1986, provides:

60.100. May charge for services (second, third, and fourth class counties).--In counties of the second, third or fourth class, the county surveyor may charge for his services such a sum as may be agreed upon by such surveyor and the person employing him. For that sum, the

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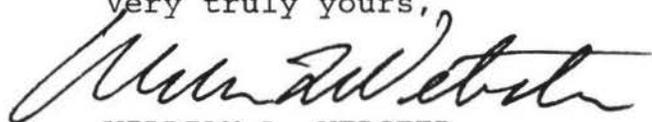
surveyor shall employ and pay for the services of the necessary chainmen, rodmen and markers. For that sum, the surveyor shall furnish to the person employing him a plat of the survey made by him, and shall also record the plat as provided by law.

See also Section 138.020, RSMo Supp. 1988. Because of the differences between county surveyors and other county officials, we conclude that a county commission is not required to provide health insurance to the county surveyor even if health insurance is provided to other county officials.

CONCLUSION

It is the opinion of this office that a county which provides health insurance to some of its elected officials is not required to provide health insurance to the county surveyor.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General

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1. Section 49.278, RSMo 1986, provides:

49.278. Governing body may provide insurance for county employees, procedure.--1. The county governing body in all counties may contribute to the cost of a plan, including a plan underwritten by insurance, for furnishing all or a part of hospitalization or medical expenses, life insurance, or similar benefits for elected officials and their employees, and to appropriate and utilize its revenues and other available funds for these purposes.

2. No contract shall be entered into by the county to purchase any insurance policy or policies pursuant to the terms of this

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section unless such contract shall have
been submitted to competitive bidding and
such contract be awarded to the lowest and
best bidder.

Because of the similarities between Section 67.150 and Section
49.278, it is not necessary to resolve which section applies in
order to answer the question posed.