

SALARIES AND FEES:
COUNTY JUDGES:

Jasper County Judges shall receive five dollars per day as salary as judge of the county court and twelve hundred dollars each per annum as members of the board of road overseers.

May 24, 1938

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Honorable Forrest Smith,
State Auditor,
Jefferson City, Missouri.

Dear Sir:

This is in reply to yours of May 18, requesting an official opinion from this department based upon the following letter:

"Will you kindly advise me the proper basis of compensation for the members of the County Court of Jasper County for the years 1935-1935 and 1937."

Section 2092, page 204, Laws of Missouri, 1933, provides in part as follows:

"In all counties of this state now or hereafter having seventy-five thousand inhabitants and less than ninety thousand inhabitants, the judges of the county court shall receive an annual salary of twenty-five hundred dollars. Said salary to be in lieu of the per diem heretofore allowed by law to said judges as judges of the county court, and in lieu of the salary heretofore allowed by law to said judges as members of the board of road overseers, under the provisions of section 7892, R.S. 1929.*****

In all counties of this state now or hereafter having less than seventy-five thousand inhabitants, the judges of the county court shall receive for their services the sum of five dollars per day for each day necessarily engaged in holding court. In addition to the salaries herein authorized to be paid to judges of the county court in counties having seventy-five thousand inhabitants or more, and in addition to the per diem herein authorized to be paid to the judges of the county court in counties having less than seventy-five thousand inhabitants, said judges shall receive five cents per mile for each mile necessarily traveled in going to and returning from the place of holding county court, provided that such mileage shall be charged only once for each regular term, and no mileage shall be paid for any special or adjourned term."

Section 7892, R. S. Mo. 1929 provides as follows:

"The judges of the county courts in all counties in this state which now have, or may hereafter have, a population of not less than 50,000 nor more than 200,000 inhabitants, and which now have, or may hereafter have, more than two hundred miles of macadamized or rock public roads, and which now have, or may hereafter have, a total taxable wealth of over twenty-five million dollars and not containing a city of the first class shall be and constitute a board of road overseers for such counties for the purpose of seeing that the fund provided for by

subdivision two of section 9874 shall be expended as provided in said second subdivision of said section 9874, and for the purpose of seeing that the roads contemplated by said subdivision of said section are each and every one kept in good repair, and for the purpose of personally viewing new road and bridge sites which are the subject of petitions for improvement, and for the purpose, through personal supervision, of seeing that all road improvements are completed in a good and workmanlike manner, and that all work of every kind done on the county roads is done in a proper workmanlike manner. Each member of said board shall, as compensation, solely for his services as such road overseer receive a salary of twelve hundred dollars per annum to be paid by the county, monthly, in equal monthly installments out of the fund mentioned in said subdivision two of section 9874. The time, place and manner of holding meetings of said board and the rules and regulations for the performance of the duties shall be fixed by said board."

From a research on your question, we find the population of Jasper County at the last decennial census was seventy three thousand eight hundred and ten (73,810), therefore, the salary of the county judges of that county would come within the classification of counties of seventy-five thousand or less which would make the salary of each county judge five dollars per day.

We also find the valuation of Jasper County is in excess of twenty-five million dollars (\$25,000,000.00); that it does not contain a city of the first class, however, we do not find upon our research that this county now has two hundred miles or more of macadamized or rock roads.

We do find that they did have this number of miles of rock road at the time of the case of State v. Lee hereinafter referred to, and if it has that much mileage of such roads at this time, then the county court judges may draw the salary as members of the board of road overseers as provided in said Section 7892, supra. In the case of State ex rel. Moseley et al. v. Lee et al, 5 S.W. (2d) 83, in which the question of whether or not the judges of the County Court of Jasper County are entitled to the salary of the board of road overseers as provided by Section 7892, supra, the court, at l.c. 94, said:

"It follows that the board of road overseers of Jasper county was not legally abolished by said series of acts of 1923, and the defendants and appellants were each entitled to perform the services, and to receive the annual salary of \$1,200 prescribed by section 10684, Revised Statutes of 1919."

Section 10684, R.S. Mo. 1919 is the same as Section 7892, R.S. Mo. 1929

CONCLUSION

From the foregoing, it is the opinion of this department that salaries of the judges of the County Court of Jasper County are fixed by the provisions of Section 2092, page 204, Laws of Missouri, 1933, which is five dollars (\$5.00) per day for each day necessarily engaged in the holding of the court, and five cents (5¢) per mile for each mile necessarily traveled in going to and returning from the place of holding county court, which mileage may be charged once for each regular term and not otherwise. Said county having a population of less than seventy-five thousand (75,000) inhabitants as shown by the last decennial census and providing said county now contains two hundred miles or more of macadamized or rock roads, the county court as members of the board of road overseers of said county are entitled to twelve

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hundred dollars (\$1200.00) each per annum.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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