

COUNTY SUPERINTENDENTS OF SCHOOLS: Entitled to receive additional compensation for added duties.

January 2, 1942



Hon. Charles B. Butler
Attorney at Law
Bank of Doniphan Building
Doniphan, Missouri

Dear Mr. Butler:

Under date of January 1, 1942, this office received from you a request for an opinion as follows:

"The Superintendent of Schools here requested me to get your opinion as to whether he is entitled to the increase of salary provided by the last legislature for this year. It was included in the budget."

House Bill No. 231, enacted by the 61st General Assembly provided for, and approved on August 9, 1941, the adding of Section 10327A and 10327B to Article 2, Chapter 72, R. S. Mo. 1939, placing upon the County Superintendent new and additional duties in connection with the supervising of transportation for rural schools, and provided compensation for such duties.

Section 8 of Article 14 of the Constitution prohibits the increasing of the compensation of any state, county or municipal officer during his term of office. This constitutional prohibition has been held not to apply to additional compensation provided for additional duties. State ex rel. Harvey v. Sheehan, 269 Mo. 421, l.c. 429. In this case, a law had been enacted placing upon the Circuit Attorney of the City of St. Louis, an additional duty and providing for added compensation. Payment of the added compensation was refused and suit was brought to compel payment of the additional compensation. The Supreme Court of Missouri, in ruling upon the question, used the following language:

"Another contention made is that since the appellant was an officer at the time of the passage of the act, it is inapplicable to him because the Constitution prohibits any increase in the pay of an officer during his term of office. We think this contention unsound because the act in question enjoins upon such officers as appellant new and additional duties and provides merely a compensation therefor. While in some jurisdictions a constitutional provision such as ours has been held to inhibit even this, in this and many other states the contrary doctrine has been accepted and acted upon. (Cunningham v. Current River Railroad Co., 165 Mo. 270; State ex rel. v. Walker, 97 Mo. 162; State ex rel. v. Ranson, 73 Mo. 89; State ex rel. v. McGovney, 92 Mo. 428; County v. Felts, 104 Cal. 60; State ex rel. Board of Commissioners, 23 Mont. 250; State ex rel. v. Carson, 6 Wash. 250; Love, Attorney-General v. Baehr, Treasurer, 47 Cal. 364; Purnell v. Mann, 105 Ky. 87; Lewis v. State ex rel., 21 Ohio C.C. 410.

The above ruling is still in force and has not been criticized. It was cited with approval in the case of Little River Drainage District v. Lassater, 325 Mo. 493, l.c. 502.

CONCLUSION

It is the conclusion that the duties of supervisors of school transportation are added duties and the Superintendents of Schools are entitled to receive the compensation provided therefor.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

VANE C. THURLO
(Acting) Attorney General