

**OFFICERS;** Compensation of State Service Officer may not be increased during present term to \$3600.00 as provided by House Bill No. 28, 62nd General Assembly.

May 3, 1944



Honorable Forrest C. Donnell  
Governor  
State of Missouri  
Jefferson City, Missouri

Your Excellency:

This is an acknowledgment of your letter of May 1, requesting an opinion from this office. The full text of such letter is as follows:

"Section 15086 of H. B. 74 of the Sixty-Second General Assembly in regular session (Laws of Missouri of 1943, page 644) reads in part as follows:

"\* \* \* The compensation of the state service officer shall be twenty-four hundred dollars (\$2400.00) per annum with allowances for expenses of telephone, telegraph, travel, printing, binding, stationery, postage, and miscellaneous other expenses incidental to the operation of such office. \* \* \*"

"House Bill No. 28 of the Sixty-Second General Assembly in extra session repealed Section 15084, Revised Statutes of Missouri, 1939, and Section 15086, Laws of Missouri, 1943, pages 643 and 644, relating to the State Service Officer, his duties, authority, compensation, employees, assistants and expenses, and enacted in lieu thereof eight new sections to be known as Sections 15084, 15086, 15086 A, 15086 B, 15086 C, 15086 D, 15086 E, and 15086 F, relating to the same subject.

"Section 15086-A of said House Bill No. 28 reads as follows:

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"The salary of the State Service Officer shall not exceed the sum of \$3,600.00 per year, and the salaries of the assistants, attorneys, consultants, clerks, stenographers and employees shall be determined and fixed by the State Service Officer, subject to the approval of the Governor."

"Your opinion is respectfully requested on the following question:

"May the salary, of the person who is now and has been serving as State Service Officer since a period prior to the enactment of said House Bill No. 28, be increased to an amount which is more than \$2400.00 per annum?"

"There is enclosed herewith copy of said House Bill No. 28."

Section 8 of Article XIV of the Missouri Constitution provides:

"The compensation or fees of no State, county or municipal officer shall be increased during his term of office; nor shall the term of any office be extended for a longer period than that for which such officer was elected or appointed."

This provision applies to all officers who are elected or appointed for a definite term of office and whose compensation or salary has been fixed by statute. State ex rel. v. Smith, 87 Mo. 158; Givens v. Daviess County, 107 Mo. 603; Callaway County v. Henderson, 119 Mo. 32.

Section 15083, R. S. Mo. 1939, provides:

"That upon this article becoming effective the governor of the State of Missouri, by and with the advice and consent of the senate, shall appoint a state service officer, who shall have served in the military forces of the United States of America and who has been honorably discharged therefrom. That said officer shall hold office for a term of four years and shall be subject to removal by the governor for cause and said officer shall be under the adjutant general."

It will be noted that the state service officer under this section is appointed for a definite term of four years and is removable for cause and not merely at pleasure.

Section 15086, R. S. Mo. 1939, and as repealed by Laws of Missouri, 1943, page 644, provides the state service officer with a salary of \$2400.00 per annum. Section 15086A of House Bill 28 of the Sixty-second General Assembly in Extra Session, repealed Section 15086 and provided the state service officer with a salary of not exceeding \$3600.00 per annum.

The state service officer is clearly such an officer as would come within the inhibition of Article XIV, Section 8, above quoted. He has a definite term and is removable for cause. His salary therefore cannot be increased during his term unless he could be said to come within the exception, that where new duties are provided additional compensation may be allowed for those new duties.

It will be necessary to compare the duties under the former law with those under the new law to determine whether the situation here comes within the exception.

Section 15084, R. S. Mo. 1939, prescribes the duties of the state service officer as follows:

"The officer, immediately after his appointment, and each succeeding officer, shall familiarize himself with all laws, both federal and state, relating to the rights of ex-service men and their dependents. That said service officer shall disseminate among veterans of all wars living in the state of Missouri information concerning their rights under the laws of the United States and the rule and regulations of the United States veterans bureau; shall aid all veterans and their dependents residing in the state of Missouri in properly preparing, presenting and prosecuting their claims for compensation, pensions, insurance, hospitalization, rehabilitation, and all other matters in which they may have a claim for an award against the United States or any state, and shall prosecute said claims to conclusion, and shall aid the United States veterans bureaus in properly adjusting all such claims."

Section 15084 of House Bill 28, states his duties:

"The State Service Officer and all subordinates and employees of said State Service Officer shall familiarize themselves with all laws, both federal and state, relating to the rights of ex-service men and women, their legal representatives and dependents. The said State Service Officer shall aid and assist veterans of all wars, their dependents or their legal representatives. He shall promote and supervise the dissemination by all available means, information concerning the rights of veterans of all wards, their legal representatives and dependents, in the State of Missouri, under the laws of the United States and the rules and regulations of all the several United States veterans' bureaus, boards, commissions or other United States departments or authorities which are or may be in any manner concerned with the interest and welfare of veterans and their dependents; and shall aid and assist all veterans, their legal representatives and dependents, living in the State of Missouri, in preparing, presenting and prosecuting the claims of such veterans for compensation, pensions, insurance benefits, hospitalization, rehabilitation, and in all other matters in which they may have a claim against the United States of America or any State arising out of or connected with their service in the Military Forces of the United States of America, and in prosecuting such claims to their conclusion, when authorized and empowered to do so by such veterans, their legal representatives or dependents. The said State Service Officer shall, in his discretion, have the right to be designated as the attorney in fact by proper written powers of attorney executed by such veterans, their legal representatives or dependents, to accomplish the purposes in this act specified. He shall be authorized to accept, in carrying out the purposes of this Act, and for no other purpose, grants of services, personnel or money from any Federal agency, or any political subdivision of the state, or from any organization

or volunteer agency desiring to participate in the work of said department. It shall be the duty of the State Service Officer and his assistants, to cooperate with the several offices of the United States Employment Service, the United States Veterans' Administration, and all other federal and state offices legally concerned with and interested in the welfare of veterans and their dependents. The State Service Officer shall accept and receive for distribution and shall distribute any federal or state funds which are available or may hereafter become available for veterans of the Military Forces of the United States of America, and if a bond be required as a condition to securing such fund or funds, the State Service Officer shall execute such bond or bonds as may be so required."

The provisions of the two sections are substantially the same as to duties. Under the new section the officer is empowered to accept money from the Federal government and other agencies to aid in carrying out the purposes of this act. It could hardly be said that this imposes a new duty upon the officer. It might even be argued that the new law somewhat restricts his duties. Under the former law the officer was bound to prepare, prosecute and present claims, and shall prosecute said claims to conclusion. Under the new section he must prosecute the claims to conclusion when authorized and empowered to do so by such veterans, their legal representatives or dependents.

It should also be pointed out that the compensation provided for by House Bill 28 merely says, "not exceeding \$3600.00." There is certainly no specific provision for additional compensation for additional duties or even any mandatory requirement that additional compensation be paid. In cases where the courts have held the exception to the constitutional provision to be applicable because additional duties were prescribed there was always a specific provision for additional compensation for that particular duty and not merely a provision for a general increase in salary. See State ex rel. v. Walker, 97 Mo. 162; Cunningham v. Ry., 165 Mo. 270; State ex rel. v. Sheehan, 269 Mo. 421.

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CONCLUSION.

It is therefore the opinion of this office that the salary of the State Service Officer may not be increased during his present term to \$3600.00 under House Bill 28, Sixty-second General Assembly in Extra Session.

APPROVED:

Respectfully submitted

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