

MAGISTRATES: Magistrate may raise salary of clerk
MAGISTRATE CLERKS: when assessed valuation is finally
placed at higher level.

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July 2, 1948

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Honorable B. H. Howard
Comptroller
Department of Revenue
Jefferson City, Missouri

Dear Mr. Howard:

This is in reply to your letter of recent date in which you enclosed a letter from Honorable Walter A. Eggers, Probate Judge of Perry County, which presented the following question:

If the assessed valuation of a county is raised and authorizes an increase in the salary of the clerk of the magistrate court, when should such increase be made effective?

It is provided in the Laws of Missouri, 1947, Volume I, page 240, Section 21, that each magistrate shall, by an order duly made and entered of record, appoint and fix the salary of a clerk of his court, which salary shall not exceed the annual amount fixed in the act of the Legislature, commonly known as the Magistrate Law, for clerk hire of such court.

The Laws of Missouri, 1945, page 765, Section 22, provide that salaries of clerks shall be paid by the state within the limits provided in that section upon requisition filed by the judge of the magistrate court. That section then sets up a salary scale based on the population and assessed valuation of all counties.

The Laws of Missouri, 1945, page 765, Section 17, provide for the salaries of magistrates, and also set up a salary scale based on the population and assessed valuation of all counties. For the purposes of this provision, the assessed valuation of all real and tangible personal property in the respective counties as last determined by the commission or other body provided by law for the equalization of taxes as between the counties, is the assessed valuation which is controlling in the

matter. The salary of a magistrate for his entire term is determined on the basis of the assessed valuation as determined for the year next prior to the year for election of such magistrate. However, there is no such restriction in Section 22, supra, requiring the clerk of a magistrate court to receive a fixed salary for and during the entire period he acts as clerk of the magistrate court. This is especially true in view of the fact that such clerk serves only at the pleasure of the magistrate and has no fixed term of office. Therefore, his salary is subject to change at any time in the discretion of the magistrate and within the limits provided by law.

The final power to equalize the valuation of real and tangible personal property in the several counties is vested in the State Tax Commission. The pertinent parts of Section 11033.14, Mo. R.S.A., in this matter are as follows (Laws of Missouri, 1947, Volume I, page 549, Section 15):

"It shall be the duty of the State Tax Commission, and the commissioners shall have authority to perform all duties enumerated in this section and such other duties as may be provided by law:

(1) Between the dates of June 20 and the second Monday in July, 1946, and between the same dates each year thereafter, the State Tax Commission shall equalize the valuation of real and tangible personal property among the several counties in the State * * * * *

"(2) The secretary of the State Tax Commission shall transmit to each county clerk and to the assessor in the City of St. Louis a report showing the per centum added to or deducted from the valuation of the property of his county, specifying the percentage added to or deducted from the real property and the tangible personal property respectively, denoted by classes, and also the value of the real and tangible personal property of his county as equalized by said Commission; and the said clerk shall furnish one copy thereof to the assessor, and except in St. Louis City one copy shall be

laid before the annual county Board of Equalization. This report shall be delivered to the clerks of the several counties so that it may be in the possession of county Boards of Equalization on or before the second Monday in July. The Assessor in St. Louis City shall make such adjustments of property valuations as directed by the State Tax Commission. * * *

Thus, when upon final determination, according to the statutory procedure, that the assessed valuation of a county is raised to a level which will justify an increase in the salary of the clerk of the magistrate court, under provisions of Section 22, supra, the judge of the magistrate court is authorized within his discretion to raise the salary of such clerk in accordance therewith.

Conclusion.

Therefore, it is the opinion of this department that if the assessed valuation of a county is raised, and such higher valuation authorizes an increase in the salary of the clerk of the magistrate court, such salary may be increased in accordance with the Laws of Missouri, 1945, page 765, Section 22, upon the final action of the proper authorities in placing the assessed valuation of such county at a higher level.

Respectfully submitted,

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APPROVED:

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