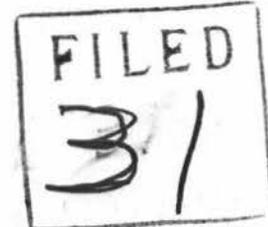


OFFICERS) County Treasurer's compensation may not be increased during term of office.

June 13, 1950

FILED 31

Honorable Edwin Frieze
Prosecuting Attorney
Dade County
Greenfield, Missouri



Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"Recently it was found that the Dade County Court had been underpaying the County Treasurer, Mr. Tom Scott, since the beginning of his term April 1, 1949. After determining that Mr. Scott was due the amount he claimed the Court promptly made the payment.

"Now the former County Treasurer, Mr. L. L. Anderson, has filed a bill with the County Court for back pay from April 1, 1946 to April 1, 1949 at \$25.00 per month, 36 months \$900.00.

"I note that H. B. 781, Section 1, page 1541, Laws of Missouri 1945 which determines the salary of the County Treasurer in 4th Class counties was approved March 7, 1945. Did it become effective on that date? Mr. Anderson's term of office was from April 1, 1945 to March 31, 1949. Is there a regulation providing that an increase in salary of a county officer shall not become effective during their present term of office?

"Is it mandatory that the County Court pay Mr. Anderson the amount he claims as back pay?"

Dade County is a county of the fourth class, having township organization. According to the 1940 census, its population was

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11,248. Section 13993, R. S. Missouri, 1939, which was in effect on April 1, 1945, provided:

"The county treasurer in counties adopting township organization shall be allowed a salary of not less than \$100.00 per month by the county court to be paid as at present provided by law; the county collector for collecting and paying over the same shall be allowed a commission of two per cent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes: Provided, he shall receive nothing for paying over money to his successor in office."

This was the section which fixed the compensation of Mr. Anderson at the time he assumed the office of county treasurer. Apparently, although it does not directly appear from your letter, the county court had determined that the allowance should be One Hundred Dollars (\$100.) per month.

An act found in Laws of 1945, page 1541, fixed the compensation of county treasurers in fourth class counties as follows:

"The county treasurers in counties of the fourth class of this State shall receive for their services annually, to be paid out of the county treasury in equal monthly installments at the end of each month by a warrant drawn by the county court upon the county treasury, the following sums: In counties having 10,000 inhabitants or less, the sum of \$1,200; in counties having more than 10,000 inhabitants and not more than 12,500, the sum of \$1,500; in counties having more than 12,500 inhabitants and not more than 15,000, the sum of \$1,800; and in counties having more than 15,000 inhabitants, the sum of \$2,200; provided, salaries set out and prescribed in this section shall be in lieu of any other or additional salaries, fees, commissions or emoluments of whatsoever kind

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for county treasurers in all counties of this state to which this section, by its terms, applies, the provisions of any other statute of this state to the contrary notwithstanding."

This act became effective on July 1, 1946. (Joint Resolution No. 1, Sixty-third General Assembly, Laws of 1945, page 2019.)

In an opinion to you dated April 19, 1950, we concluded that the compensation of county treasurers in fourth class counties under township organization was fixed by the 1945 act, above quoted. However, this act became effective after Mr. Anderson's term of office as county treasurer had begun.

Section 13 of Article VII, Constitution of Missouri, 1945, provides:

"The compensation of state, county and municipal officers shall not be increased during the term of office; * * *"

(Underscoring ours.)

Under this constitutional provision, the 1945 act could not have had the effect of increasing the salary of Mr. Anderson to One Hundred Twenty-five Dollars (\$125.) per month, or Fifteen Hundred Dollars (\$1,500.) per year, which is the salary fixed by the 1945 act for a county of the fourth class having a population between 10,000 and 12,500 inhabitants. Therefore, Mr. Anderson's compensation would have remained the same as it was at the beginning of his term.

CONCLUSION

Therefore, it is the opinion of this department that the compensation of a county treasurer of a county of the fourth class under township organization, whose term commenced on April 1, 1945, was determined under Section 13993, R. S. Missouri, 1939, and that if the compensation fixed by the county court under that section was less than that provided in an act found in Laws of Missouri, 1945, page 1541, and fixing the compensation of county treasurers in fourth class counties, the 1945 act was not effective during

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the term of such treasurer in view of the provisions of Section 13, Article VII, Constitution of Missouri, 1945, prohibiting the increase of compensation of county officers during their term of office. We are of the opinion in the circumstances that Mr. L. L. Anderson is not entitled to be paid his claim for increased compensation during the period from April 1, 1946, through April 1, 1949.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General