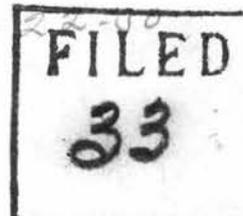


COUNTY COURT:
COUNTY TREASURER:
SERVICES:

The county court in a third class county is not authorized to pay extra compensation to the county treasurer for duties performed pursuant to the disbursement of county road funds under the King Road Bill (Laws of Mo. 1945, p. 1471.)

November 22, 1950.

Honorable James Glenn,
Prosecuting Attorney
Macon County,
Macon, Missouri.



Dear Mr. Glenn:

This will acknowledge receipt of your recent request for an opinion from this office. Your request is stated as follows:

"The Macon County Court desires your opinion on the following question:

"Is the County Court authorized to pay from county funds to the duly elected County Treasurer extra compensation for duties performed by the County Treasurer under the so-called 'King Road Bill', Laws of 1945, page 1471, as reenacted by the Laws of 1947, Vol. 2, page 350?

"The County Court has found it to be a fact that by reason of the passage of the King Road Bill that the duties of our County Treasurer have been substantially increased due to the large amount of construction under this program. The Court has expressed itself as being willing to pay compensation for these extra duties if they are authorized to do so by law.

"Your advice as to the legality of this proposed extra compensation will be appreciated."

In regard to the above we would first call your attention to the well established rule of law that before a public officer can claim compensation for public services he must first point out the specific statute authorizing the payment of such compensation.

A restatement of this principle was made in the case of Nodaway County v. Kidder, 129 S.W. (2d) 857, l.c. 860, where it is held:

"The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a compensation therefor is provided by statute.

If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too must be strictly construed as against the officer. State ex rel. Evans v. Gordon, 245 Mo. 12, 28, 149 S.W. 638; King v. Riverland Levee District, 218 Mo. App. 490, 493, 279 S.W. 195, 196; State ex rel. Wedeking v. McCracken, 60 Mo. App. 650, 656.

"It is well established that a public officer claiming compensation for official duties performed must point out the statute authorizing such payment. State ex rel. Buder v. Hackman, 305 Mo. 342, 265 S.W. 532, 534; State ex rel. Linn County v. Adams, 172 Mo. 1, 7, 72 S.W. 655; Williams v. Chariton County, 85 Mo. 645."

Many other cases could be cited in support of this principle but we feel it unnecessary to do so.

From the above, therefore, we adduce that in order that the duly elected County Treasurer be allowed extra compensation for duties performed under the Laws of Missouri, 1945, p. 1471, as amended by Laws of Missouri 1947, Vol. 2, page 350 (commonly known as the King Road Bill) that the county official must point out a statute which clearly provides that he is entitled to such additional compensation.

A thorough search of Missouri law fails to reveal a statute providing for such extra compensation. Your attention is directed to Laws of Missouri, 1945, p. 1540, Sec. 1 (R.S. Mo. A., Sec. 13800.3) fixing the salary of treasurer in counties of the third class. Said section reads as follows:

"The county treasurers in counties of the third class of this State, except counties under township organization, 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 less than 7,500 inhabitants, the sum of \$1,300; in counties having more than 7,500 inhabitants and less than 10,000 the sum of \$1,400; 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; in counties having more than 15,000 inhabitants and not more than 20,000, the sum of \$2,200; in counties having more than 20,000 inhabitants and not more than 25,000 the sum of \$2,400; in counties having more than 25,000 inhabitants and not more than 30,000, the sum of \$2,400; in counties having more than 30,000 inhabitants but not more than 35,000, the sum of \$2,750; in counties having more than 35,000 inhabitants but not more than 40,000, the sum of \$3,200; and in counties having more than 40,000 inhabitants, the sum of \$3,500; 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 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: Provided however that this increase in compensation shall not apply during their present terms of office."

From the above we believe it is clear that a county court is not authorized to pay any extra compensation to the county treasurer for duties performed pursuant to the King Road Bill (Laws of Missouri 1945, p. 1471 as amended) in disbursement of the county road funds.

CONCLUSION.

The county court in a third class county is not authorized to pay extra compensation to the county treasurer for duties performed pursuant to the King Road Bill (Laws of Missouri 1945, p. 1471 as amended) in disbursement of the county road funds.

Respectfully submitted,

JOHN E. MILLS
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney-General

JEM/lid