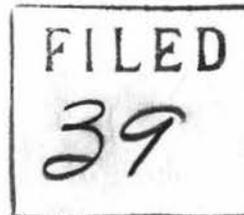


MAGISTRATES ) Salaries of Magistrates for terms beginning  
) January 1, 1951, determined by assessed  
) valuation for Year 1949.

December 6, 1950

12/7/50

Honorable Cline C. Herren  
Judge of the Probate and  
Magistrate Courts  
Webster County  
Marshfield, Missouri



Dear Sir:

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

"At page 773 Laws of Missouri 1945 under Section 17 governing the salaries payable to Magistrates, among other things, states: 'For the purposes of this act, 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 next prior to the year for election of such Magistrates, shall be deemed to be the assessed valuations for the ensuing terms of such Magistrates.'

"Our population according to the 1950 census will decrease from 17,226 to slightly above the 15,000 mark, however, I understand that our assessed valuation has been set for 1950 to slightly more than \$11,000,000.00 an increase from \$9,317,129.00 in 1949. Will the salary for the coming term be fixed according to the valuation set by the state board in 1950 or will we be forced to use the valuation set for 1949 which is below the \$11,000,000.00 mark?

"Will the clerical allowance for my county be set according to the 1950 assessed valuation

Honorable Cline C. Herren

or the 1949 assessed valuation?

"I will appreciate your early attention to this matter so that we may requisition the proper amounts for the January 1951 salaries."

Section 17, referred to in your opinion request, fixes the salaries of magistrates. In counties having a population of more than 11,000 but not more than 17,000 inhabitants with an assessed valuation of more than \$11,000,000.00 the salary is fixed at \$3600.00. In counties having such population but with an assessed valuation of \$11,000,000.00 or less the salary is fixed at \$3000.00. Section 22 of said act fixes the amount which the state may pay on salaries of clerks of the magistrate court. In counties having a population of more than 11,000 but not more than 17,000 inhabitants with an assessed valuation of more than \$11,000,000.00 the sum of \$1500.00 is allowed for clerical hire. In such counties having an assessed valuation of \$11,000,000.00 or less the sum of \$1200.00 per year is allowed.

We believe that the provision of Section 17, quoted in your opinion request, is clear and requires the 1949 assessed valuation to be used in determining the salary of the magistrates for the term beginning January 1, 1951. This provision states that the assessed valuation as determined by the State Tax Commission "next prior to the year for election of such magistrates" shall be used as the assessed valuation for the ensuing terms of the magistrates. The year next prior to the year for election is, of course, 1949. Inasmuch as the election of magistrates was held on November 7, 1950, we think that under the statutory provision, there is no alternative to the use of the assessed valuation for the year prior to the year of such election.

We feel that the same figure must be used for determining clerical salaries. There is no provision in the section fixing the amounts payable for clerical help specifying the year which must be used in determining the assessed valuation. However, Section 17 states that the assessment there specified shall be used "for the purposes of this act." Therefore, we think that it would apply throughout the act, and, therefore, determine the year which must be used for the assessed valuation in fixing amounts payable for clerical hire.

Honorable Cline C. Herren

CONCLUSION

Therefore, it is the opinion of this department that under the provisions of Section 17, Laws of Missouri, 1945, the assessed valuation for counties for the purpose of determining magistrates' salaries for the terms beginning January 1, 1951, and for the allowances for clerical hire during such terms is the assessed valuation of the county as determined by the State Tax Commission for the Year 1949.

Respectfully submitted,

ROBERT R. WELBORN  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

RRW/feh