

COUNTY ASSESSOR: County Clerk may permit assessor to hire
COUNTY CLERK: stenographic help in fourth class county;
ASSESSOR: County Court not authorized to pay compensation
for deputy assessor or clerical hire. County
Clerk not authorized to alter assessor's books
on his own initiative when assessor certifies
his books to the county court.

January 22, 1951

2/9/51

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Honorable John A. Johnson
Prosecuting Attorney for Reynolds County
Centerville, Missouri

Dear Sir:

This department is in receipt of your request for an official opinion which reads as follows:

"I have been requested by the Assessor of Reynolds County, Missouri to find out whether the Assessor in Counties of the 4th Class is entitled to have his Clerk Hire or any portion thereof, paid for by the County Court from County Funds?

"Also he would like to know whether the County Clerks of 4th Class Counties have the authority to change any or all of the totals of the Real and Personal Tax Books, certified to him by the County Assessor."

This department, in an opinion rendered to Mr. J. W. Thurman, Prosecuting Attorney of Jefferson County, dated April 29, 1949, held that county courts in counties of the third class may in their discretion reimburse a county assessor for necessary stenographic hire. That opinion related only to stenographers and did not pass upon the question of the pay of clerks or deputies. Since the same reasoning and conclusion would be applicable to counties of the fourth class we enclose a copy of that opinion for your information. Based on the reasoning therein it is the opinion of this department that a county court in counties of the fourth class, may, in their discretion, reimburse a county assessor for necessary stenographic hire.

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Distinguish therefrom the compensation of a deputy assessor or clerk which the county court of a fourth class county is not authorized to pay.

The question presented, as phrased by you, whether or not the assessor in counties of the fourth class is entitled to have his clerk hire or any portion thereof, paid for by the county court from county funds.

R. S. Mo., 1949, Section 53,060 provides for the appointment of deputies, and for their pay in the following words:

"Every assessor, except in the city of St. Louis, may appoint as many deputies as he may need, to be paid as provided by law. Each deputy shall take the same oath and have the same power and authority as the assessor himself. The assessor shall be responsible for the official acts of his deputies." (L. 1945 p. 1782, Sec. 5)"

While sections 53,140 to 53,180 inclusive, R. S. Mo., 1949, provide for compensation of the county assessors in counties of the fourth class, a review of these and other statutes relating to assessors in such counties discloses no provision for the pay of deputies or clerks.

It appears that while an assessor in a fourth class county may employ as many deputies as he may need, the county court may not pay for said deputies out of county funds, but said deputies must look to the assessor for their compensation.

For your information we are enclosing an opinion rendered by this department to Mr. James D. Clemens, Prosecuting Attorney for Pike County, dated February 4, 1950, holding that county courts of counties of the third class may not pay the compensation of a deputy assessor or clerk. The reasoning therein and conclusion reached is also applicable to a county of the fourth class.

Turning now to your second question as to whether the county clerk of a fourth class county has the authority to change any or all of the totals of the real and personal tax books, certified to him by the county assessor. Your attention is directed to R. S. Mo., 1949, Section 137,245 requiring the county assessor to certify to the county court a copy of the assessor's books and enjoins upon the county clerk the duty of making an abstract of the same and forward such abstract

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to the state tax commission. Said section reads as follows:

"1. The assessor, except in St. Louis city, shall make out and return to the county court, on or before the thirty-first day of May in every year, a fair copy of the assessor's book, verified by his affidavit annexed thereto, in the following words, to wit:

....., being duly sworn, makes oath and says that he has made diligent efforts to ascertain all the taxable property being or situate, on the first day of January last past, in the county of which he is assessor; that, so far as he has been able to ascertain the same, it is correctly set forth in the foregoing book, in the manner and the value thereof stated therein, according to the mode required by law."

"2. The clerk of the county court shall immediately make out an abstract of the assessment book, showing aggregate footings of the different columns, so as to set forth the aggregate amounts of the different kinds of real and tangible personal property and the valuation thereof, and forward the same to the state tax commission. Upon failure to make out and forward such abstract to the state tax commission on or before the twentieth day of June, the clerk shall, upon conviction be deemed guilty of a misdemeanor. (L 1945, p 1782 Sec. 39)"

We are unable to find any statute authorizing the county clerk on his own initiative to alter the totals entered in the assessor's book and certified by him to the county court.

CONCLUSION

A County Court in counties of the fourth class may, in their discretion, reimburse a county assessor for necessary stenographic hire.

A County Court in counties of the fourth class is not authorized to pay the compensation of a deputy assessor or clerk.

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The County Clerk in a county of the fourth class is not authorized, on his own initiative, to alter the totals of the Assessor's books certified by the assessor to the county court.

Respectfully submitted,

JOHN E. MILLS
Assistant Attorney General

APPROVED

OK

J. E. TAYLOR
Attorney General

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