

COUNTY JUDGES,

BOARD OF EQUALIZATION:

) County judges in third class counties
) are entitled to compensation for ser-
) vices as members of the county board
) of equalization, in addition to their
) regular pay as members of the county
) court, and may be entitled to compen-
) sation for both services on the same
) day.

FILED
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October 17, 1952

10/17/52 ✓

Mr. Charles H. Baker
Assistant Prosecuting Attorney
Dunklin County
Kennett, Missouri

Dear Mr. Baker:

We have given careful consideration to your re-
quest for an opinion, which request is as follows:

"Are Judges of the County Court in Class
Three Counties entitled to the compensa-
tion of \$5.00 per day for performance of
their duties as members of the County
Board of Equalization as provided in Sec.
138.020, Revised Statutes of Missouri - 1949',
and 'May such Judges also be paid their
regular compensation as provided in Sec.
49.110, Revised Statutes of Missouri - 1949,
in addition to the \$5.00 per day as members
of the County Board of Equalization, if, on
the same day such Judges act in both capaci-
ties.'"

The compensation of judges of the county court in
counties of the third class is provided in Section 49.110,
RSMo 1949, as amended by the 66th General Assembly and pub-
lished on page 40 of the 1951 Supplement to the RSMo 1949.
This section is as follows:

"In all counties of the third class in
this state, the judges of the county court,
from and after the expiration of their
present terms of office, shall receive for
their services the sum of ten dollars per
day for each of the first ten days in any
month that they are necessarily engaged in
holding court and shall receive five dollars
per day for each additional day in any
month that they may be necessarily engaged
in holding court, and shall receive five

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cents per mile for each mile necessarily traveled in going to and returning from the place of holding county court. The per diem compensation herein fixed shall be paid at the end of each month and the mileage compensation shall be paid at the end of each month on presentation of a bill, by each of the respective county judges setting forth the number of miles necessarily traveled; provided, however, that this increase in compensation shall not become effective during any county judge's present term of office."

The county board of equalization is constituted as provided in Section 138.010, RSMo 1949. This section is as follows:

"1. In every county in this state, except as otherwise provided by law, there shall be a county board of equalization consisting of the judges of the county court, the county assessor, the county surveyor, and the county clerk who shall be secretary of the board without vote.

"2. This board shall meet at the office of the county clerk on the second Monday in July, 1946, and on the second Monday of July of each year thereafter; provided, that in any county having township organization the sheriff of said county shall also be a member of the board of equalization."

The compensation of members of the county board of equalization is provided in Section 138.020, RSMo 1949. This section is as follows:

"The judges of the county court, the county surveyor, the county assessor, the sheriff, the county clerk, and those sitting as members as may otherwise be provided, shall receive five dollars per day for each day they shall be present and act in the performance of their duties as members of the county board of

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equalization; provided, that the above county officers who are now or may hereafter be compensated by salary shall not be entitled to the compensation provided in this section."

It should be observed that the county court and the county board of equalization are two separate and distinct agencies of local government. The judges of the county court are simply designated as ex officio members of the county board of equalization. It so happens that the judges must serve a dual purpose, but the duties and functions of the board do not lie within the province of the court.


Under Section 49.110 the judges of the county court are entitled to compensation for all days "that they are necessarily engaged in holding court," and under Section 138.020 they "shall receive five dollars per day for each day they shall be present and act in the performance of their duties as members of the county board of equalization." "It may be expedient or necessary for the judges to hold a meeting of the court on a day in which the board of equalization is in session. There seems to be nothing in the law to prohibit a meeting of the county court at such time. In that event the judges would be entitled to pay for both services on the same day.

CONCLUSION

It is the opinion of this office that the judges of the county court in counties of the third class are entitled to the compensation of five dollars per day for performance of their duties as members of the county board of equalization, in addition to their regular pay as members of the county court, and may be entitled to compensation for both services when acting in both capacities on the same day.

Respectfully submitted,

APPROVED:



J. E. TAYLOR
Attorney General

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