

*micrographed*

COUNTY ASSESSOR: Township assessor not required to perform duties  
COMPENSATION: of House Bill No. 392 passed by the 66th General  
Assembly. County shall pay additional compensa-  
tion to county assessor provided for in Section  
150.335 of said bill.

December 4, 1952



Honorable G. H. Bates  
Director of Revenue  
State of Missouri  
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your request which reads:

"On June 7, 1952 this department made the following request for an official opinion from your office:

"It is noted from an opinion issued by your department under date of May 26, 1952 that assessors are entitled to an additional fee of 45¢ for visiting and inspecting the establishments of merchants and manufacturers and 6¢ for making a report.

"This department would like to know if one-half of this additional fee is to be paid by the State and one-half by the county. We would like, also, to know if this fee statute applies to township assessors in counties under township organization."

"We would like very much to have this opinion at your earliest convenience."

It does seem rather unusual that the Legislature in enacting House Bill No. 392 would require county assessors in counties of the third and fourth class to investigate merchants and businesses in their respective counties and make a report thereon, and at the same time not include in said bill the same duty for

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township assessors in said counties; for the reason in counties under township organization there is no county assessor, but only the township assessors who perform all the duties ordinarily required of a county assessor. A careful examination of said House Bill No. 392 fails to disclose wherein there is any ambiguity in said bill with regard to this particular request.

Section 150.055 of said bill merely provides that the county assessor at least once a year shall visit and inspect each place, warehouse, store or other establishment owned and operated by any merchant in his county, for the purpose of attaining certain information necessary for comparative purposes with the statement made by such establishments under Section 150.050, RSMo 1949. As can be seen, Section 150.055, supra, specifically places the additional duty only on the county assessor.

Section 150.060 of said bill merely requires the assessor or county clerk, as the case may be, to read the merchant's tax book and further provides that the assessor shall make the reports required under Section 150.155, which section only provides for the county assessor to make such reports.

Furthermore, Section 150.325 of said bill refers solely to the county assessor, who, under said statute, is required to make a similar visit and report as provided under Section 150.055 of said bill. Only this section applies to certain other businesses and manufacturers.

So, in view of the foregoing statutes, we must conclude that if the Legislature desires township assessors of third and fourth class counties to perform the additional duties clearly placed upon county assessors in said counties under said bill, then it must be more specific and will necessitate an amendment to said bill so as to include township assessors. In the absence of such an amendment, we must hold that the provisions of House Bill No. 392 are not applicable to township assessors in third and fourth class counties.

You also inquire if township assessors are entitled to the additional compensations provided in Section 150.335 of said bill. Since we have already held the bill does not apply to township assessors in these particular counties, we hardly deem it necessary to further discuss this question. However, Section 150.335, supra, the only provisions said bill contains relating to additional compensation for such duties merely provides that the county assessor in all such counties shall receive a certain specified fee. There is absolutely no mention of any additional fee to the township assessor for any such duties performed by him. Therefore, under *Nodaway County v. Kidder*, 129 S.W. (2d)

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857, 344 Mo. 795, the Court laid down the rule that a public officer claiming compensation for official duties performed, must point out the statute authorizing such payment. In view of this, even if the township assessor of this bill should be required to perform the duties provided therein, which he is not required to do, he would be entitled to no additional compensation for such services for the reason that there is no statute authorizing the additional compensation for anyone, except the county assessor.

You further inquire if the state and county shall share the payment of these fees provided for the county assessor under Section 150.335, supra.

House Bill No. 392 is silent as to how such additional compensation shall be paid the county assessor, but while it is true that under Sections 53.130-140, RSMo 1949, the Legislature fixed the compensations of county assessors in third and fourth class counties and provided that the state and county should share the cost of such compensation. However, there is no such statute authorizing the state to pay one-half of this additional compensation provided for in Section 150.335, House Bill No. 392. Under Section 50.330, RSMo 1949, it provides that any salary provided for a county officer shall be paid in monthly installments by warrants drawn on the county treasury. Under Ward v. Christian County, 111 S.W. (2d) 182, 1.c. 184, the Supreme Court said:

" \* \* \* However, section 11781, R.S. 1929, Mo. St. Ann. § 11781, p. 6996, allows fees for many services not performed for third persons. Necessarily these are chargeable to the county and should be paid by the county to the clerk (or his deputy) up to the amounts allowed by section 11811 for the compensation of the clerk and his deputies. \* \* \* "

Therefore, we must hold that the additional compensation provided in House Bill No. 392 must be paid by the county.

#### CONCLUSION

It is the opinion of this department that township assessors in third and fourth class counties are not required

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under House Bill No. 392 passed by the 66th General Assembly to make the annual visitation and report provided for therein, and it naturally follows that such township assessor is not entitled to any additional compensation or fee for such service rendered as provided for in Section 150.335 of said bill.

Furthermore, the additional compensation provided for the county assessor in Section 150.335 of said bill must be borne by the county in the absence of a statute to the contrary.

Respectfully submitted,

AUBREY R. HAMMETT, JR.  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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