

SOCIAL SECURITY: Section 51.415, enacted by the 66th General  
COUNTY EMPLOYEES: Assembly, applies to all counties of the  
THIRD AND FOURTH third and fourth class which have entered  
CLASS COUNTIES: into an agreement under Senate Committee  
Substitute for Senate Bill No. 3, to place  
county employees under the Federal Social  
Security Act. It is not void for being  
discriminatory.

April 7, 1952

4-7-52

Honorable Ralph Nevins  
Prosecuting Attorney  
Hickory County  
Hermitage, Missouri

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Dear Sir:

This is in reply to your opinion request, which is as follows:

"Does Section 51.415 restrict the payment of additional or increased salary to those counties of the third and fourth class who have entered into an agreement with the state agency to place county employees under the Federal Social Security Act?"

"The point I wish to raise is whether or not the provision of the section which limits the application to counties which have entered into an agreement with the state agency might be void because discriminatory."

The provisions of Section 51.415 not yet published in V.A.M.S. are contained in House Bill No. 549 of the 66th General Assembly. The relevant section of the above bill is as follows:

"51.415. 1. In all counties of the third and fourth class which shall enter into an agreement with the state agency to place county employees under the Federal Social Security Act in accordance with the provisions of an act of the 66th General Assembly of the state of Missouri known as Senate Committee Substitute for Senate Bill No. 3, approved by the Governor, on, \_\_\_\_\_ 1951, it shall be the duty

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of the county clerk to keep necessary records, collect contributions of county employees and remit the same to the state agency, and do all other administrative acts required by the agreement or by ruling of the federal or state agency in order to carry out the purposes of the aforesaid act.

"2. In addition to the compensation now provided by law for said county clerks, and in consideration of the additional duties imposed upon them by this act, they shall receive compensation payable in twelve equal monthly installments out of the county treasury in the following amounts:"

Section 1.090, RSMo 1949, is as follows:

"Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import."

The above seems to be definite and clear, at least in the following respect: That the county clerks in counties of the third and fourth class are required to keep the records in counties which have accepted the provisions of the Senate Committee Substitute for Senate Bill No. 3. It will be noted that such clerks are required to do several things which need not be repeated here. The second part of Section 51.415 provides compensation for the additional duties imposed upon said clerks.

In State v. Adkins, 284 Mo. 680, l.c. 693, the Court stated as follows:

"\* \* \* It is a fundamental rule of construction of all writings, whether they be laws, wills, deeds, contracts or constitutions, that they must be construed as a whole, and not in detached fragments; that they must be construed to effectuate and

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not to destroy their plain intent and purpose, and that in determining what is that intent and purpose all provisions relating either generally or specially to a particular topic are to be scrutinized and so interpreted, if possible, as to effectuate the intention of the makers. This rule does not need (though it does not lack) authority to give it vitality. It is inherent in the very nature of things, and springs from reason as Minerva sprang from the brain of Jove, full-grown and ready for battle."

The plan of the Legislature to establish directions to counties of the third and fourth class in the manner and means of the administration of the Old Age and Survivors Insurance provisions in Senate Bill No. 3 is clear and definite. It is also clear and definite that they, the Legislature, intended that the clerks of such counties be reimbursed for a task not required of counties which have not accepted the provisions of the said Senate Bill No. 3.

In regard to whether or not this statute is discriminatory, we must refer to Article VI, Section 8 of the Constitution of Missouri, 1945. It is as follows:

"Classification of counties--uniform laws.-- Provision shall be made by general laws for the organization and classification of counties except as provided in this Constitution. The number of classes shall not exceed four, and the organization and powers of each class shall be defined by general laws so that all counties within the same class shall possess the same powers and be subject to the same restrictions. A law applicable to any county shall apply to all counties in the class to which such county belongs."

(Underscoring, ours.)

Since Senate Committee Substitute for Senate Bill No. 3 is directly referred to in Section 51.415, supra, the nature of that law should be considered here. Section 1, subsection 7, of Senate Committee Substitute for Senate Bill No. 3, provides as follows:

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"'Political subdivision', any county, township, municipal corporation, school district, or other governmental entity of equivalent rank;"

Then in Section 5, subsection 1, it is provided as follows:

"Each political subdivision of the state and each instrumentality of the state or of a political subdivision may submit for approval by the state agency a plan for extending the benefits of Title 2 of the Social Security Act to its employees, and are hereby authorized to, by proper ordinance or resolution, enter into and ratify any such agreement upon its approval as aforesaid. \* \* \*"

The above law is certainly a general law as it is applicable to all counties of all classes. It can also be seen from the quoted sections that it includes even more political subdivisions than just counties.

Section 51.415, supra, quoted in part above, gives to the clerks of counties of the third and fourth class additional duties. Taking into consideration the purpose of the law to provide for the administration of another which gives to all counties of all classes a new and additional power, the purpose and extent of Section 51.415, supra, is definite and certain.

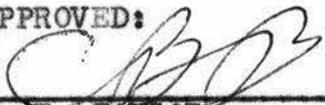
#### CONCLUSION

It is therefore the opinion of this department that the provisions of Section 51.415, supra, apply to clerks of counties of the third and fourth class who have entered into an agreement with the state agency to place county employees under the Old Age and Survivors Insurance Act. It is the further opinion of this department that Section 51.415 is not void because discriminatory.

Respectfully submitted,

JAMES W. FARIS  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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