

COUNTY COURTS THIRD CLASS COUNTIES: SALARY AND MILEAGE:

~~It is the opinion of this department that county court judges, in counties of the third class, will, for the remainder of their present terms, receive \$10.00 per day for the first ten days in any month in which court is held, and \$5.00 per day for each additional day in each month in which court is held, and 5¢ per mile necessarily travelled in going to and returning from the place of holding court.~~



September 11, 1953

Honorable William T. Bellamy, Jr.
Prosecuting Attorney
Saline County
Marshall, Missouri

Dear Mr. Bellamy:

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

"The Judges of the County Court of this county have asked that I write you and get your opinion with regard to House Bill #70 of the recent 67th General Assembly which took effect August 29, 1953. This Bill repealed Section 49.110 and enacted a new Section 49.110 with regard to the compensation of County Judges.

"The only material change was to allow the County Judges 2¢ more per mile going to and from court than was previously the case. The new act very clearly provides that this change will take place from and after the expiration of their present terms of office. It is my own opinion that this is very clear and that they will not be allowed 7¢ until their present terms expire, inasmuch as no additional duties are created and this is in effect a raise in pay. Consequently, in view of all this, I can't see how they would be entitled to 7¢ a mile presently for going to and from court but they asked that I get your opinion in this regard.

"The main problem with regard to the act as I see it is what salary and mileage

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the Judges will be allowed for the remainder of their present terms. The act very clearly repeals the old statute relating to their salary and mileage and states that the new salary will not take effect until their present terms of office expire. Consequently, I should like to know just what salary and mileage they are entitled to for the remainder of their present terms of office."

Section 49.110, RSMo 1949, Cumulative Supplement, 1951, fixed the compensation of County Court Judges in counties of the third class at \$10.00 per day for the first ten days in each month in which court is held, and at \$5.00 per day each day thereafter upon which court is held. House Bill No. 70, which became effective August 29, 1953, repeals the above section and re-enacts it with the exception that the rate of mileage is changed from 5¢ to 7¢. House Bill No. 70 states that Judges of the County Court in counties of the third class shall "from and after the expiration of their present terms of office," receive \$10.00 per day for the first ten days in each month that court is held, and \$5.00 per day each day thereafter that court is held, and 7¢ mileage.

Your question is, since Section 49.110, supra, has been repealed by House Bill No. 70, which went into effect August 29, 1953, but which does not apply to Judges during their present terms, under what statute do these Judges draw salary and mileage.

We believe that the answer to this question is found in Section 1.120, RSMo 1949, which reads:

"The provisions of any law or statute which is re-enacted, amended or revised, so far as they are the same as those of prior laws, shall be construed as a continuation of such laws and not as new enactments. (683, A. 1949 S.B. 1001)"

The provisions in House Bill No. 70 regarding pay are identical with repealed Section 49.110, supra, and so the pay provisions in that section is continued, as is the 5¢ mileage provision during the present terms of the Judges.

CONCLUSION

It is the opinion of this department that county court judges, in counties of the third class, will, for the

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remainder of their present terms, receive \$10.00 per day for the first ten days in any month in which court is held, and \$5.00 per day for each additional day in each month in which court is held, and 5¢ per mile for each mile necessarily travelled in going to and returning from the place of holding court.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General

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