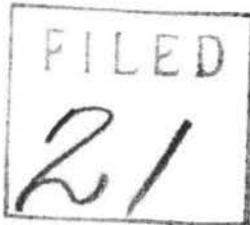


COMPENSATION:
COUNTY RECORDER:

That the county recorder in fourth class counties wherein the offices of circuit clerk and recorder have been combined, shall receive only that portion of the additional compensation provided in Section 2 of Senate Bill 166, passed by the 67th General Assembly, prorated from the effective date of said bill; furthermore, that such payment shall be made in monthly installments as provided under Section 50.330, RSMo 1949.

XXXXXXXX

John M. Dalton



August 17, 1953

XXXXXX

John C. Johnsen

Honorable Bill Davenport
Prosecuting Attorney
Christian County
Ozark, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion which reads as follows:

"The Circuit Clerk and Recorder of my County has requested the opinion of your office regarding the interpretation of Senate Bill 166 of the last session concerning a yearly increase in pay for such officers of fourth class counties for preparing an alphabetical list of persons discharged from military service.

"The specific information requested is whether this \$300.00 is payable in full for the year 1953 and whether it is contemplated to be paid in a lump sum or monthly. Of course, as you know, much of the work to be done thereunder will be retroactive to the old files."

Section 1 of said Senate Bill 166, passed by the Sixty-seventh General Assembly, fixing additional duties upon the Circuit Clerk and Recorder in counties of the fourth class, wherein said offices have been combined as the recorder of county. These additional duties are the preparing of alphabetical lists of all residents of his county who have been discharged from the Armed Forces of the United States, showing other things mentioned in said section, also the book and page number wherein the discharge is recorded. It

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furthermore requires that such lists be up-to-date at all times and, in addition to the above, includes other related duties.

Section 2 of said Senate Bill provides for additional compensation for the performance of such additional duties and reads:

"2. For the performance of the duties required by sub-section 1 of this section the circuit clerk and recorder in counties of class four shall receive the sum of three hundred dollars annually."

Said Senate Bill 166 carried no emergency clause. It was approved by the Governor on the 19th day of June, 1953, and, therefore, it becomes effective under the provisions of Section 29, Article III, Constitution of Missouri, within ninety days after the adjournment of the General Assembly which occurred on May 31, 1953, making said bill become effective on August 29, 1953.

At first blush, it might appear that to give said county officers such additional compensation would be in violation of Section 13, Article VII, Constitution of Missouri, which provides that no county officer should receive increased compensation during his term of office. However, the Supreme Court of this state has frequently held that said provision is not applicable in cases wherein the General Assembly has burdened such county officers with additional duties and further provided for additional compensation for the performance of such additional duties. See State ex rel. v. Sheehan, 269 Mo. 421, 1. c. 429, 190 S.W. 864.

You specifically inquire if the \$300.00 as additional compensation under said bill to said county officers for performing additional duties as provided therein should be paid in full for the year 1953 and if it shall be paid in a lump sum or monthly.

We are mindful of the fact that said bill does not become effective until the 29th day of August, 1953. Furthermore, it requires additional work of said county recorder in preparing a list of residents of his county that may have heretofore been discharged from the Armed Forces and also in keeping such list up-to-date and recording same. This not only entails the making a list and recording the names of those discharged in the state subsequent to the effective date of said bill but of those discharged prior to the effective date

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of said bill.

The General Assembly, under Section 2 of said bill provided that for the performance of such additional duties, said officers shall receive the sum of \$300.00 annually.

"Annually" has been defined as meaning yearly or once in each year. See *Continental National Bank v. Buford*, 107 Federal 188, l. c. 189; *Metropolitan National Bank v. Sirret*, 97 N. Y. 320, 331; *Hoffman Speciality Company v. Pelouze*, 164 S. E. 397, 399. It was also held in *Kearney v. Cruikshank*, 22 N. E. 580, 582, 117 N. Y. 95, that the direction to pay to the county a specified sum annually is that sum to be paid in an annual yearly payment. See also *Henry v. Henderson*, 33 So. 960-964, 81 Miss. 743, 63 R.L.A. 616.

It is well settled that every statute be given a prospective operation unless a definite effect is clearly to be gathered from its terms, even though general language is used which might include past transactions. See *State ex rel. Parker v. Thompson*, 41 Mo. 25; *Lucas v. Murphy*, 156 S. W. (2d) 686, 348 Mo. 1078. While the bill in question may require listing and recording those discharged prior to this bill becoming a law and further that said bill provides that said officers shall receive additional compensation of \$300.00 annually, we cannot see wherein such language alone is sufficient to clearly indicate that the legislative intent was that it should operate retroactively.

Section 50.330, RSMo 1949, provides that any salary for a county officer shall be paid in monthly installments on the first day of each month by warrant drawn on the County Treasury.

A well established rule of statutory construction is that all statutes applicable to the subject involved must be read and construed together and, if possible, harmonized. See *State v. Naylor*, 40 S. W. (2d) 1079, 328 Mo. 395.

Considering Section 50.330, supra, and Section 2 of Senate Bill 166, supra, it was apparently the legislative intent that said officers shall receive \$300.00 additional compensation annually, however, it shall be paid in monthly installments, furthermore, that for the year, 1953, said officers shall only receive that portion of additional compensation provided in said bill prorated from the effective date of said bill.

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CONCLUSION

It is the opinion of this department, in view of the foregoing, that the county recorder in fourth class counties wherein the offices of circuit clerk and recorder have been combined, shall receive only that portion of the additional compensation provided in Section 2 of Senate Bill 166, passed by the Sixty-seventh General Assembly, prorated from the effective date of said bill; furthermore, that such payment shall be made in monthly installments as provided under Section 50.330, RSMo 1949.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Aubrey R. Hammett, Jr.

Very truly yours,

JOHN M. DALTON
Attorney General

ARH/mv