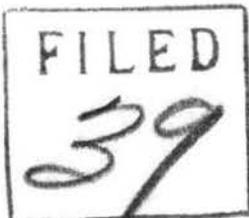


COUNTY CLERK:

A county clerk of a third class county with a population of more than twenty-four thousand and less than thirty thousand shall be allowed as compensation for deputy and assistants an amount equal to 100% of his salary as determined in Section 51.300, exclusive of Section 51.415 and in addition thereto the amount specified in Section 51.415, RSMo 1949.



January 29, 1953

1-29-53

Honorable George Henry  
Prosecuting Attorney of  
Newton County  
Neosho, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this office which request reads as follows:

"I would like to have the opinion of your office on the following proposition:

"Newton County is a third class county and the salary of the County Clerk is set by Section 51.300 of the Revised Statutes of Missouri, 1949. Then Section 51.450(5) provides that the County Clerk shall be allowed an amount equal to 100% of his salary for the employment of deputies and assistants. In 1951 H. B. 459 was enacted as Section 51.415, Revised Statutes of Missouri, 1949, and provides additional compensation for the County Clerk and deputies for administration of Social Security Act. Newton County has elected to come under the provisions of the Social Security Act and since the amount allowed as clerk hire under Section 51.415 is not as great as the amount allowed under Section 51.450(5), there appears to be a conflict in the two sections providing for compensation of deputies and assistants.

Honorable George Henry

"Our question is, shall the County Clerk be allowed as compensation of deputies and assistants, an amount equal to 100% of his salary received both under the provisions of Section 51.300 and 51.415 or shall he be allowed as compensation for duties and assistants, an amount equal to 100% of his salary received under provisions of Section 51.300 plus the amount allowed for clerk hire under the provision of 51.415(3)."

We note, for the purpose of this opinion, that Newton County is a county of the third class having a population of at least twenty-four thousand and less than thirty thousand as indicated by the 1950 census of population count.

Section 51.300, RSMo 1949, prescribes the salary of a county clerk of a county of the third class. Section 51.450, RSMo 1949, provides for the appointment and compensation of deputies in counties of the third class and reads in part, so far as we are here concerned, as follows:

"The clerk of the county court in each county of the third class shall be entitled to employ deputies and assistants, and for such deputies and assistants shall be allowed the following sums:

\* \* \* \* \*

"(5) In counties having a population of twenty-four thousand, and less than thirty thousand, the sum of one hundred per cent of the salary of the county clerk; \* \* \* provided, that the total allowance for deputies and assistants shall in no case exceed the sum of four thousand dollars annually. The county court in all counties of the third class may allow the county clerk, in addition to the amount herein specified for deputies' or assistants' hire, a further sum not to exceed five hundred dollars per annum, to be used solely for clerical hire or allowed and paid, in whole or in part, as additional compensation to any regular deputy or assistant to be determined by the county court of such county;

Honorable George Henry

provided, that the county court shall determine that the work required to be done by such clerk or clerks demands or requires such extra remuneration."

Section 51.415, RSMo, Cumulative Supplement 1951, enacted by the Sixty-sixth General Assembly, to which you refer, provides as follows:

"1. In all counties of class three and four 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 sections 105.300 to 105.450 RSMo 1949, it shall be the duty 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 law.

"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 section, they shall receive compensation payable in twelve equal monthly installments out of the county treasury in the following amounts:

"(1) In counties of class three, eight hundred dollars per annum;

"(2) In counties of class four, six hundred dollars per annum.

"(3) In counties of class three the salary of the deputy clerk shall be increased three hundred dollars per year to be paid in twelve equal monthly installments.

"(4) In counties of class four the salary of the deputy county clerk shall be increased two hundred forty dollars per year to be paid in twelve equal monthly installments."

Honorable George Henry

You inquire as to what is the amount allowed a county clerk in counties of the third class for deputies' and assistants' salaries under the foregoing cited provisions. It is a fundamental rule of statutory construction that statutes dealing with the same subject matter shall be read and construed together to give effect to each, consistent with the other if at all possible. This rule is stated in the case of *State v. Mitchell*, 181 S. W. (2d) 496, as follows:

"\* \* \* Statutes are in 'pari materia' when they are upon the same matter or subject. 31 C.J., p. 358; and the rule of construction in such instances proceeds upon the supposition that the several statutes relating to one subject were governed by one spirit and policy and were intended to be consistent and harmonious in their several parts and provisions. *Dupont v. Mills*, 9 W.W. Harr. 42, 39 Del. 42, 62; 196 A. 168, 119 A.L.R. 174, 185."

Under the above stated rule, it is presumed that the General Assembly was cognizant of laws relating to the same subject matter when Section 51.415 was enacted and that it was intended to be consistent therewith, unless a contrary intention is indicated or unless a repugnancy exists rendering the provisions inconsistent. Following this rule, we are of the opinion that the amount provided in Section 51.415 is in addition to the amount allowable under Section 51.450. Section 51.415 takes into consideration the fact that additional duties will be imposed upon the county clerk of a county which has elected to participate in the Social Security program and will place upon him additional duties, and that he should be compensated therefor. It further provides that for the additional duties imposed on the office by participation in the Social Security program, the county clerk shall be allowed an additional amount for deputy hire. We are of the opinion that this additional amount for deputy hire as provided, was intended to be full compensation for such additional work.

It is noted in paragraph 2 of Section 51.415, that the amount therein specified is to be "in addition to the compensation now provided by law, \* \* \*" thereby precluding an interpretation which would allow the county clerk for deputy hire an amount equal to one hundred per cent of his salary provided in Sections 51.300 and 51.415, RSMo 1949.

Such an interpretation renders each provision effective and consistent with the other.

Honorable George Henry

CONCLUSION

Therefore, it is the opinion of this office that the compensation provided in Section 51.415, Cumulative Supplement 1951, payable to the county clerk for deputy hire for additional duties imposed upon the office by the county's participation in the Social Security program, is in addition to the amount allowed a county clerk of a county of the third class for the employment of deputies and assistants provided in Section 51.450, RSMo 1949, and that in computing the amount provided in Section 51.450, the increase in the county clerk's salary provided in Section 51.415, is not taken into consideration since the latter section specifically provides that the amount is in addition to that already provided by law.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. D. D. Guffey.

Yours very truly,

JOHN M. DALTON  
Attorney General