

SOCIAL SECURITY:
COUNTY CLERK:

Effective date of additional compensation
for county clerks for performing duties
imposed after county elects to accept
provisions of State Social Security Law.



May 28, 1953

Honorable James T. Riley
Prosecuting Attorney of
Cole County
Jefferson City, Missouri

Dear Sir:

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

"The County Court of Cole County
has requested that I secure your
interpretation of Section 51.415
Cum. Supp. 1951. The above section
was approved by the Governor on Dec-
ember 20, 1951, and became effective
on that date.

"On January 15, 1953, the Cole County
Court made an order accepting the pro-
visions of Chapter 105 Cum. Supp. 1951,
and in that order the effective date of
the contributions was determined to be
January 1, 1951. The services required
by Section 51.415 have been performed by
the County Clerk and his deputy since
January 15, 1953. No services were per-
formed by the County Clerk prior to that
time, as the County had not elected to
accept the provisions of the Social
Security Law.

"Notwithstanding the fact the County
Clerk performed no services during the
calendar years 1951 and 1952, is the
County Clerk entitled to the increased

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annual compensation for the calendar years 1951 and 1952, by virtue of the order of the Court making the contributions retroactive to January 1, 1951."

You state that on January 15, 1953, Cole County, by order of the County Court, elected to accept the provisions of the recently adopted Social Security Law relating to public employees, Chapter 105, Cumulative Supplement 1951. Likewise, by court order, the effective date of the contributions imposed was determined to be January 1, 1951, as authorized by the State and Federal Acts. Section 51.415, to which you refer and about which you inquire reads 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 county clerk shall be increased three hundred dollars per year to be paid in twelve equal monthly installments.

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"(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."

You inquire as to whether or not the County Clerk, under the provisions of this section and the facts stated, is entitled to the increased compensation for the years 1951 and 1952. Before determining this question, we wish to make reference to certain rules of statutory construction. The primary rule is to ascertain and give effect to the lawmakers intent from the words used and put upon such language its plain and rational meaning, taking into consideration the purpose sought to be accomplished by the Act. *Roberts v. City of St. Louis*, 242 S. W. (2d) 293, and statutes must be held to operate prospectively unless the intent is clearly expressed or the language of the statutes admits of no other construction, *Lucas v. Murphy*, 156 S. W. (2d) 686. Specifically, in regard to compensation statutes, it is stated in 67 C. J. S., Officers, Section 93, as follows:

"The usual rules of interpretation are applied in determining the intent of the legislature and the meaning of an enactment in so far as concerns the construction of statutes relating to the compensation of public officers must be strictly construed in favor of the government, and an officer is entitled only to that which is clearly given. * * *

"Words in a statute simply specifying that an officer shall receive a designated compensation have no retroactive effect unless there is something in the language indicating it. * * *"

With these rules in mind, we now look to Section 51.415. This section provides that in all counties of the third and fourth class which adopt the provisions of the State Social Security Law, it shall be the duty of the county clerk to keep necessary records, collect contributions and remit same to the state agency, and do all other administrative acts required by the agreement or by ruling of the federal or state agency necessary to carry out the purpose of the law. It is then provided that in addition to the compensation provided by law "and in consideration of the additional duties imposed * * * by this section," the several county clerks shall receive the following enumerated compensation. The clear and stated purpose of the act is to compensate clerks for the additional duties

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imposed. Prior to January 15, 1953, the County Clerk of Cole County had no additional duties and while although the contributions were collected as of January 1, 1951, this, of course, was done by the Clerk after the date the county court authorized participation in the program. We cannot conceive, nor is it indicated from the language employed, that it was the legislative intention to provide additional compensation prior to the time the Clerk actually undertook the additional duties or before the effective date of the act itself. On the contrary, the opposite conclusion is clearly manifested.

CONCLUSION

Therefore in the premise, it is the opinion of this office that where a county of the third class, by order of the county court dated January 15, 1953, elects to accept the provisions of the State Social Security Law and likewise, by court order determines that contributions shall be imposed and collected as of January 1, 1951, as authorized by the State and Federal Acts, the County Clerk, charged with the duty of keeping necessary records, collecting and remitting contributions to the state agency and performing other administrative acts required to carry out the purpose of the law, is not entitled to the additional compensation provided in Section 51.415 for such additional duties, for the years 1951 and 1952.

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

Very truly yours,

JOHN M. DALTON
Attorney General

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