

COUNTY ASSESSORS:
COUNTIES:

Annual compensation of county assessor in third class county computed on fee basis until commencement of next year of his incumbency after effective date when county's classification changes from third class to second class, at which time he will receive an annual salary as provided by Sec. 53.120, RSMo. 1949. Such assessor's deputies to be compensated under Sec. 53.090 from date such assessor's compensation is changed.



January 27, 1955

Honorable Stephen R. Pratt
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Mr. Pratt:

This opinion is rendered in reply to your recent request reading as follows:

"I have recently been requested to obtain an official opinion from your office as to the status of the assessor's office when the county classification changes from a third class county to a second class county, and the said change be made during a fiscal year of the assessor's term as follows:

"1. In that Clay County changed classification from a third to a second class County as of January 1st, 1955, and the Assessor's fiscal year being from September 1st of one year to August 31st of the next year and such change of classification being made during said fiscal year of the Assessor, will the Assessor, Deputies and Clerks compensation from January 1st, 1955 to August 31st, 1955 be based on the fee basis under which the current fiscal year was started as of September 1st, 1954 and ending August 31st, 1955?

"2. In that all work that has been done by the Assessor, Deputies and Clerks since September, 1954, was pertaining to 1955 assessment duties and "if it is held that the Assessor's compensation is under Class 2 salary as of January 1st, 1955," the Assessor would only receive compensation for eight months of a fiscal year and there-

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fore 'what provision is or will be made for compensation of the Assessor personally, for the four months of the current fiscal year from September 1st to December 31st, 1954?'

The term of office of a county assessor is set forth in the language of Section 53.010 RSMo 1949 which reads:

"At the general election in the year 1948 and every four years thereafter the qualified voters in each county in this state, except those under township organization, shall elect a county assessor. Such county assessors shall enter upon the discharge of their duties on the first day of September next after their election, and shall hold office for a term of four years, and until their successors are elected and qualified, unless sooner removed from office; provided, that this section shall not apply to the city of St. Louis."

Under the provisions of the foregoing statute we assume that the present assessor in Clay County was elected at the general election in November, 1952 and assumed his official duties on September 1, 1953, with a full four-year term not to expire until September 1, 1957.

In the case of State ex rel. Harvey v. Linville, 300 S.W. 1066, 318 Mo. 698, the Supreme Court of Missouri was considering a fact situation only slightly dissimilar to the facts appearing in your request for this opinion. In the cited case the compensation of the county official was automatically increased due to an increase in population, while in our present fact situation we find the county official's compensation being automatically changed due to an increase in assessed valuation in the county.

The following language from State ex rel. Harvey v. Linville, 300 S.W. 1066, 318 Mo. 698, 1.c. 702, will determine the principal issue in this opinion:

"* * *Annual salary' as used in said Section 10938, means salary for each year of the incumbency. It cannot be split up into periods by elections which occur during the year, and must be calculated on a year as a whole. We

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conclude further that 'annual' as applied to salaries means not the calendar years, but the years of the incumbent's term, which in the case of relator begins on the first day of April each year."

Under the rule announced in the foregoing quotation the county assessor of Clay County will have his annual compensation computed on a fee basis until the commencement of the next year of his incumbency commencing after the effective date when the county's classification changes from third class to second class, at which time his annual compensation will no longer be computed on a fee basis, but on a salary basis as provided in Section 53.120, RSMo 1949. It necessarily follows that the compensation of the county assessor's deputies will, beginning with the assessors first year of incumbency after reclassification of Clay County, be subject to the rule applicable to second class counties and found at Section 53.090, RSMo 1949.

CONCLUSION

It is the opinion of this office that the county assessor of a third class county will have his annual compensation computed on a fee basis until the commencement of the next year of his incumbency commencing after the effective date when the county's classification changes from third class to second class, at which time his annual compensation will be computed on a salary basis as provided in Section 53.120 RSMo 1949 and compensation of such county assessor's deputies will, beginning with the assessor's first year of incumbency after such county's reclassification be subject to the rule applicable to second class counties and found at Section 53.090 RSMo 1949.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Julian L. O'Malley.

Yours very truly,

JL:OM:mw

JOHN M. DALTON
Attorney General