

PROBATE COURTS: In counties having more than thirty thousand and  
CLERKS OF COURT: less than seventy thousand inhabitants, with an as-  
sessed valuation in excess of thirty million dol-  
lars, the county court may, where the need exists,  
provide such additional clerks, deputy clerks and other employees in  
the probate court as in its discretion it believes are required; and  
provide funds for the payment of salaries of such employees in ad-  
dition to the amounts specified in Sec. 483.475 RSMo Cum. Supp. 1955.

October 23, 1956



Honorable Scott O. Wright  
Prosecuting Attorney  
Boone County  
Columbia, Missouri

Dear Mr. Wright:

Reference is made to your request for an official opinion of this office, wherein you inquire whether the county court in a county of the third class may, in their discretion, provide additional clerks, deputy clerks, or other employees in the probate court, and compensate such employees in addition to the amount specified in Section 483.475 RSMo Cum. Supp. 1955.

Section 483.475 RSM Cum. Supp. 1955, provides as follows:

"1. In all counties now or hereafter having more than thirty thousand inhabitants, the probate judges shall appoint their own clerks, assistants and stenographers, and shall determine their number and their salaries by order of record and may remove them when in the discretion of such judges it is deemed advisable. All salaries of such judges and their appointees shall be paid monthly by the county, upon requisition issued by the judge of such court.

"2. In all counties now or hereafter having more than thirty thousand and less than seventy thousand inhabitants, the total salaries of all clerks, assistants and stenographers in the probate court for any one calendar year shall not:

"(1) In counties with an assessed valuation of twenty million dollars or less, exceed the sum of one thousand two hundred dollars;

"(2) In counties with an assessed valuation of more than twenty million dollars and not more than thirty million dollars exceed the sum of two thousand and four hundred dollars;

"(3) In counties with an assessed valuation of over thirty million, exceed the sum of three thousand dollars.

"3. In all counties of class two such salaries for such year shall not exceed the sum of six thousand six hundred dollars. In any county where need exists, the county court is authorized to provide such additional clerks, deputy clerks or other employees in the probate court as the county court in its discretion believes are required and is authorized to provide funds for payment of salaries or parts of salaries of such clerks, deputy clerks and employees in addition to the amounts hereinbefore specified.

"4. In any county now or hereafter having two hundred and fifty thousand or more inhabitants, the total salaries of all clerks, assistants and stenographers for any calendar year shall not be such that the total salaries of such judge and his appointees shall exceed the total sum of fees received and accounted for by such judge for such year."

Said section authorizes the appointment of clerical and stenographic assistants in the office of the probate judge, and provides for their compensation by specifying the maximum amount that may be paid for such services according to population, assessed valuation, or county classification. We take note of the fact that Boone County has more than thirty thousand and less than seventy thousand inhabitants with an assessed valuation in excess of thirty million dollars. Under such circumstances Section 483.475 provides that the total salaries for all clerks, assistants, and stenographers in the probate court for any one calendar year shall not exceed the sum of three thousand dollars.

Paragraph 3 of said section provides that "in any county where need exists the county court is authorized to provide such additional clerks, deputy clerks or other employees in the probate court as the county court in its discretion believes are required." and further provides that the county court is authorized to provide funds for the payment of salaries in addition to the amounts specified. Said authority directly follows and is included in the paragraph relating to the maximum amount that can be paid for stenographic and clerical assistants in probate courts of counties of the second class. At first blush, it would appear that the authority of the county courts to provide additional clerks and stenographers and authorize their compensation in addition to the amounts specified

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relates only to counties of the second class. However, we do not believe that such authority was intended by the Legislature to be so limited.

A brief review of the legislative history of this section, we believe, will aid in clarifying this question. Section 483.475 was originally enacted in 1945. (Laws, 1945, p. 1514.) Said enactment did not then contain any provision authorizing the county courts to provide for and pay the salaries of any additional clerical and stenographic assistants. This section was amended in 1947. (Laws, 1947, p. 361). As amended the section reads as follows:

"Probate judge to appoint other employees. -- In all counties now or hereafter having more than 30,000 inhabitants, the probate judges shall appoint their own clerks, assistants and stenographers, and shall determine their number and their salaries by order of record, and may remove them when in the discretion of such judges it is deemed advisable. All salaries of such judges and their appointees shall be paid monthly by the county, upon requisition issued by the judge of such court. In all counties now or hereafter having more than 30,000 and less than 70,000 inhabitants, the total salaries of all clerks, assistants and stenographers in the probate court for any one calendar year shall not (a) in counties with an assessed valuation of \$18,000,000 or less exceed the sum of \$1200.00; (b) in counties with an assessed valuation of more than \$18,000,000 and not more than \$30,000,000 exceed the sum of \$1800.00; (c) in counties with an assessed valuation of over \$30,000,000 exceed the sum of \$2400.00; in any county now or hereafter having more than 70,000 and less than 250,000 inhabitants such salaries for such year shall not exceed the sum of \$4800.00; except that in counties where probate courts may be held in more than one place in any county, the county court may, at the cost of the county, provide such additional clerks, deputy clerks or other employees as may be required by the Probate Court and may provide funds for payment of salaries or parts of salaries of such officers or employees in addition to the amounts fixed by this section; and in any county now or hereafter having 250,000 or more inhabitants, the total salaries of all clerks, assistants and stenographers for any calendar year shall not be such that the total salaries of such judge and his appointees shall exceed the total sum of fees received and accounted for by such judge for such year.

"Approved May 6, 1948."

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Here, for the first time, appears the authority of the county court to provide for and pay additional clerical and stenographic assistants. However, said authority was at that time limited to counties where probate courts may be held in more than one place in the county. It does not appear that said authority was otherwise limited to a county of a particular class, population or assessed valuation. Said section was again amended in 1951. (Laws, 1951, p. 426.) The 1951 amendment omitted the provision relating to counties where probate courts may be held in more than one place in the county, and adopted the provision as now contained. By such amendment we believe that it is clear that the Legislature intended to confer upon any county the authority which had previously been restricted to counties where probate courts may be held in more than one place in the county. The 1951 amendment divided this section into paragraphs (identical to the present arrangement), whereas the 1947 enactment was contained in a single paragraph. However, it should be noted that the sequence of the matters contained remained the same. We do not believe that it can be said that the Legislature intended any change in substance merely by the arrangement of this section into paragraphs.

It should be further noted that said phrase refers to the "amounts" hereinbefore specified. If it had been the intention of the Legislature to limit the authority granted to county courts of counties of the second class, it would not have been necessary to use the plural, since only one amount is specified in regard to such counties.

#### CONCLUSION

Therefore, it is the opinion of this office that in counties having more than thirty thousand and less than seventy thousand inhabitants, with an assessed valuation in excess of thirty million dollars, the county court may, where the need exists, provide such additional clerks, deputy clerks and other employees in the probate court as in its discretion it believes are required, and provide funds for the payment of salaries of such employees, in addition to the amounts specified in Section 483.475 RSMo Cum. Supp. 1955.

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

Very truly yours,

John M. Dalton  
Attorney General

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