

October 31, 1961



Honorable Lee Aaron Bachler
State Senator
28th District
Anderson, Missouri

Dear Senator Bachler:

This refers to your letter of October 20, 1961, which reads as follows:

"I would appreciate an opinion from your office as to whether the incumbant Treasurer in a Class 4 county is entitled, during his current term of office, to the salary applicable to his county as provided for under Section 54.270 of the Amended Laws of the Revised Statutes of the State of Missouri and if so, the date that said salary would become effective."

We understand your inquiry to be whether county treasurers in Class 4 counties, without township organization, can receive during their present terms of office the increase in salaries provided by an amendment to Section 54.270, R.S.Mo. 1959, enacted in 1961.

Prior to the recent amendment, Section 54.270 read as follows:

"The county treasurers in counties of the fourth class of this state shall receive for their services annually the following sums: In counties having ten thousand inhabitants or less, the sum of one thousand eight hundred dollars;

Honorable Lee Aaron Bachler October 31, 1961

in counties having more than ten thousand inhabitants and not more than twelve thousand five hundred, the sum of two thousand one hundred dollars; in counties having more than twelve thousand five hundred inhabitants and not more than fifteen thousand, the sum of two thousand four hundred dollars, and in counties having more than fifteen thousand inhabitants the sum of two thousand eight hundred dollars. The salaries are in lieu of any other or additional salaries, fees, commissions or emoluments of whatsoever kind."

It perhaps should be noted that Section 54.270 had been amended in 1959, after the present county treasurers took office. However, that was merely a revision amendment which changed the salaries stated in Section 54.270 to include compensation previously provided by Section 54.273, which was then repealed. Hence, the salaries set forth in Section 54.270 as quoted above were in effect (pursuant to Sections 54.270 and 54.273) when the present county treasurers took office.

The recent amendment to Section 54.270 increased the salaries specified by that section by \$500.00 in each instance. This increase was not granted as additional compensation for the performance of new duties placed upon the county treasurers. In such circumstances, it is the settled law of this state that the increase cannot be received during the present term of office in view of Article VII, Section 13, Constitution of Missouri, which reads, in part, as follows:

"The compensation of state, county and municipal officers shall not be increased during the term of office; * * *."

While you do not mention it in your letter, it occurs to us, because of another inquiry made of us informally, that your inquiry may have been prompted by the thought that the answer as to McDonald County might be affected in some way by the fact that, due to a decrease in population, the county treasurer of that county is now receiving less pay than at the beginning of his term.

Prior to the 1960 census, McDonald County was in the 12,501 to 15,000 population bracket and, pursuant to

Honorable Lee Aaron Bachler October 31, 1961

Section 54.270, the county treasurer received \$2400.00. Under the 1960 census, which became effective for this purpose on January 1, 1961, McDonald County dropped to the 10,001 to 12,500 population bracket and the county treasurer's salary under Section 54.270 became \$2100.00.

It does not appear to us that these facts could have any bearing upon the county treasurer's entitlement to part or all of the \$500.00 increase provided by the 1961 amendment to Section 54.270. A change resulting from a county moving from one population and salary bracket to another during the term of office is not regarded as an increase or decrease of compensation during the term of office for the purpose of the pertinent constitutional provision. At \$2100.00, the county treasurer of McDonald County is receiving the salary which was fixed at the beginning of his term for counties of the classification into which McDonald County now falls, and such compensation cannot be increased during his term of office. In this connection, we are enclosing copies of opinions furnished to F. Hiram McLaughlin on July 11, 1940, and to Mrs. G. B. Stewart on January 26, 1961, which contain extensive quotations from Missouri court decisions pertinent to this matter.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JCB:BJ