

SCHOOLS:  
SUPERINTENDENT AS  
TRANSPORTATION SUPERVISOR:  
THIRD CLASS COUNTIES:  
COMPENSATION WHEN PAID:

Section 167.220 R.S.Mo. 1959 requires  
Treasurer of third class county to pay  
amount of monthly compensation therein  
provided to superintendent of schools of  
county as supervisor of school transpor-  
tation out of funds received from State of  
Missouri for that purpose. Treasurer un-  
authorized to make any such payments to  
superintendent, as school transportation  
supervisor, before receipt of funds for  
that purpose from State of Missouri.

February 15, 1961

Honorable Charles B. Faulkner  
Prosecuting Attorney  
Lawrence County  
Mount Vernon, Missouri



Dear Mr. Faulkner:

This office is in receipt of your recent request for a  
legal opinion, which reads as follows:

"Will you please state your opinion in regard  
to the above captioned statute in circumstances  
where the State of Missouri has not forwarded  
the funds to the County Treasurer for compensa-  
tion to the County Superintendent.

"Our county treasurer has not received funds from  
the State of Missouri as yet for compensation to  
the County Superintendent for his duties as  
supervisor of school transportation.

"I have stated to the County Court and Treasurer  
that it was my opinion that the county, being  
a third class county, would have no authority  
for the payment of the above stated compensation  
due to the fact it was contingent upon receipt  
of same from the State of Missouri."

We understand the inquiry based upon the above mentioned  
factual situation to be whether or not the Treasurer of the third  
class county of Lawrence would be authorized, under provisions of  
Section 167.220 R.S.Mo 1949, to pay compensation to the superin-  
tendent of schools of such county for his services as supervisor  
of school transportation, before the Treasurer has received funds  
from the State of Missouri for that purpose.

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As to whether or not the answer to this inquiry will be in the affirmative or in the negative will depend upon the provisions of Section 167,220 R.S. Mo. 1959. Said section reads as follows:

"County superintendents-compensation for duties as supervisors of school transportation (class three counties).- County superintendents of schools in counties of the third class in this state shall be compensated for their duties as supervisors of school transportation in addition to the salary provided in section 167.210, as follows: In counties having less than seven thousand population, he shall receive three hundred and seventy-five dollars per annum; in those having seven thousand and less than ten thousand population, he shall receive four hundred and thirty-five dollars per annum; in those having ten thousand and less than twelve thousand population, he shall receive four hundred and ninety-five dollars per annum; in those having twelve thousand and less than fifteen thousand population, he shall receive five hundred and fifty-five dollars per annum; in those having fifteen thousand and less than twenty-five thousand population, he shall receive six hundred and fifteen dollars per annum; in those having twenty-five thousand and less than thirty-six thousand population, he shall receive six hundred and seventy-five dollars per annum; and in those having thirty-six thousand or more population, he shall receive seven hundred and thirty-five dollars per annum. The county treasurers of the several counties shall pay over such compensation monthly, out of funds received by said county treasurers from the State of Missouri for the purpose of compensating county superintendents of schools for their duties as supervisors of school transportation, at the same time he pays the county superintendent of schools his salary for the performance of his other duties."

Many Missouri decisions held that the right of a public officer to compensation must be founded upon a statute, which is strictly construed against the officer. Among such decisions so holding is the well known case of Nodaway County v. Kidder,

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129 S. W. 2d, 857, but here the court went a step further than usual, and in effect held that when a statute authorized payment of compensation to a public officer in a particular mode or manner, he was entitled to no further compensation or to be paid in a different mode or manner and that such statutes are strictly construed against the officer. At l. c. 860, the court said:

"The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a compensation therefor is provided by statute. If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too must be strictly construed as against the officer. State ex rel. Evans v. Gordon, 245 Mo. 12, 28, 149 S.W. 638; King v. Riverland Levee Dist., 218 Mo. App. 490, 493, 279 S.W. 195, 196; State ex rel. Wedeking v. McCracken, 60 Mo. App. 650, 656."  
(Emphasis supplied.)

In view of the fact said section authorizes compensation to be paid such officer and then only in the amount applicable to third class counties of a certain population, and in a particular mode or manner, it is believed that in view of the holding in the Nodaway County case, the compensation of the superintendent of schools is a matter closely connected with the factual situation involved in the opinion request as well as the inquiry presented therein.

Said case is sufficient legal authority for the holding that the superintendent can be paid compensation for his services as supervisor of school transportation only in the mode or manner provided by Section 167.220.

#### CONCLUSION

Therefore, it is the opinion of this office that under the provisions of Section 167.220, R.S. Mo. 1959, the treasurer of a county of the third class shall pay the amount of monthly compensation therein provided to the superintendent of schools of such county for performance of his duties as supervisor of school transportation, out of funds received from the State of Missouri for that purpose. The treasurer lacks the power and is unauthorized to make any such payments to the superintendent of schools, as supervisor of school transportation, before receipt of funds for

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that purpose from the State of Missouri.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Paul N. Chitwood.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

PNC:vm