

Opinion Request No. 401 answered by letter.
(There is another letter pertaining to No. 401.)

December 7, 1961



Honorable Charles D. Trigg
Comptroller and Budget Director
State Capitol
Jefferson City, Missouri

Dear Mr. Trigg:

You have requested our advice with respect to the effect of the 1960 census upon the liability of the State for compensation of probate judges ex officio magistrates in Newton, Pulaski and St. Charles Counties. In each of such counties the population was less than 30,000 before the effective date of the 1960 census but now exceeds 30,000 in each of them. This office has heretofore ruled under date of February 14, 1961, in an opinion to Honorable John M. Rice that such decrease in population does not operate to create a vacancy in the office of magistrate during the term of the present probate judge ex officio magistrate, and that the incumbent judge would continue to fill the office of magistrate until the end of his term. This office has further ruled in an opinion dated January 26, 1961, to the Comptroller and Budget Director that where the application of the statutory formula so requires, magistrates salaries must be changed as of January 1, 1961, in accordance with the statutory classification contained in the laws in effect at the commencement of their terms, irrespective of whether such change results in an increase or a decrease in the amount of compensation payable.

In view of the foregoing and upon a review of the applicable statutory provisions, it is the opinion of this office that the judges who hold the office of magistrate in the above listed counties must continue to be paid by the State based on the classification set forth in Section 482.150, RSMo 1959, with their salaries changed in accordance with the new classification thereof resulting from the change in population.

Honorable Charles D. Trigg

It follows from the foregoing, that as of January 1, 1961, the State is liable for salaries of the incumbent probate judge ex officio magistrate in each of said counties on the following basis:

(a) In Newton County the salary of the judge is payable under the provisions of paragraph (5) of Section 482.150 instead of paragraph (4) of said section which was formerly applicable when the population was less than 30,000.

(b) In Pulaski County the salary of the judge is payable under the provisions of paragraph (6) of Section 482.150 instead of paragraph (1) which was formerly applicable.

(c) In St. Charles County the salary of the judge is payable under the provisions of paragraph (6) Section 482.150 rather than the provisions of paragraph (4) of said section which was formerly applicable.

As of October 13, 1961, the salary rate in each of the foregoing classifications has been increased. However, the classification itself is not thereby affected.

Yours truly,

THOMAS F. EAGLETON
Attorney General

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