



December 7, 1961

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

Dear Mr. Trigg:

You have requested the advice of this office concerning the total amount that may be paid by the State for salaries of clerks, deputies and employees of magistrate courts in Stoddard, Newton, Pulaski and St. Charles counties in view of the changes in population in said counties under the 1960 census, and House Bill No. 462. Newton, Pulaski and St. Charles counties each had a population of less than 30,000 under the 1950 census but their population now exceeds that figure. The population of Stoddard County has decreased so that it is now less than 30,000.

In our opinion dated January 26, 1961, to Honorable John W. Schwada, Comptroller and Budget Director, we held that where the application of the statutory formula so requires, incumbent 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. We find no authority in any statute for the Comptroller to act upon the false assumption that the 1950 census is still effective in any of the above listed counties. In our opinion the 1960 census became effective as to all counties in the State for the same purpose. Liability of the State for clerical hire in magistrate courts is created by statute and no salaries may be paid by the state except as provided. The Comptroller has no authority to interpolate anything into the statute contrary to the express provision thereof, simply in order to avoid a result which the Legislature conceivably may not have contemplated. Section 483.490, RSMo 1959, prior to October 13, 1961 and the amendment thereof by House Bill 462, effective October 13, 1961, is the only statute under which the State is liable for clerical hire in any of the magistrate courts. It follows that upon the effective date of the 1960 census the State is authorized to pay for clerical hire only that amount which is provided for on the basis of the

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present population.

Section 1.100, RSMo 1959, provides that for the purpose of ascertaining the salary of any county officer for any year or for any amount he is allowed to pay for deputies and assistants the effective date of the 1960 census is January 1, 1961. It follows, therefore, that in determining the total amount which may be paid by the state upon requisition of the magistrates of the respective counties for clerks, deputies and employees in magistrate courts the effective date of the 1960 census is January 1, 1961.

Applying the foregoing conclusion to the counties involved in your request, the following is the result:

As of January 1, 1961, Newton County had a population in excess of 30,000 and less than 40,000 inhabitants. The rate applicable to counties of that classification was set forth in paragraph 7 of Section 483.490, RSMo 1959, at \$2820.00 per annum. Effective October 13, 1961, under the provisions of House Bill 462 the rate applicable to counties of the size of Newton is now \$3420.00.

As of January 1, 1961, Pulaski County had a population in excess of 40,000 and less than 70,000 inhabitants. The rate applicable to counties of that classification was set forth in paragraph 8 of Section 483.490, RSMo 1959, at \$3220.00 per annum. Effective October 13, 1961, under the provisions of House Bill 462 the rate applicable to counties of the size of the size of Pulaski is now \$3820.00.

As of January 1, 1961, St. Charles County had a population in excess of 40,000 and less than 70,000 inhabitants. The rate applicable to counties of that classification was set forth in paragraph 8 of Section 483.490, RSMo 1959, at \$3220.00 per annum. Effective October 13, 1961, the rate applicable to St. Charles County is now \$3820.00.

As of January 1, 1961, Stoddard County had a population in excess of 15,000 but not more than 30,000 inhabitants and with an assessed valuation of more than \$24,000,000.00. The rate applicable to counties of that classification was set forth in paragraph 6 of Section 483.490, RSMo 1959, at \$3800.00 per annum. Effective October 13, 1961, under the provisions of House Bill 462 the rate applicable to counties the size of Stoddard is now \$4400.00.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

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