

COUNTY TREASURERS:
COUNTIES:
COMPENSATION:

County treasurers in class 3 and 4 counties under township organization are entitled to compensation as provided under Section 54.275, RSMo 1959, in addition to compensation they are entitled to receive under Section 54.320, RSMo 1959.

February 21, 1962

OPINION NO. 21



Honorable John K. Leopard
Prosecuting Attorney
Daviness County
Gallatin, Missouri

Dear Mr. Leopard:

In your letter of October 9, 1961, you requested an opinion from this office as follows:

"As prosecuting attorney I have been requested by Mr. Lee R. Pierce, Treasurer of Daviness County, to write your office for an opinion concerning the compensation which a county treasurer is entitled in a county of the third class under the township organization form of government.

"More specifically, the question which Mr. Pierce poses is whether he is entitled to both the minimum salary of \$100 per month, as provided in Section 54.320 of the 1959 Revised Statutes, and to the additional compensation of \$600 per year, as provided in Section 54.275(2) of the 1959 Revised Statutes.

"The local county court has raised the question as to whether Mr. Pierce is entitled to the additional \$600 per year; I have given both them and Mr. Pierce my written opinion that he is entitled to both forms of compensation since it seems that Section 146.056 of the 1959 statutes imposes

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the duties therein specified upon treasurers of all counties without regard to the form of county government, but nevertheless, I think they both feel that an opinion from your office would better determine the matter."

Daviess County is a third class county under township organization with a population of 9,502.

Section 54.320, RSMo 1959, provides:

"The county treasurer in counties of the third and fourth classes adopting township organization shall be allowed a salary of not less than one hundred dollars per month by the county court to be paid as at present provided by law; the ex officio collector for collecting and paying over the same shall be allowed a commission of three per cent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes; he shall receive nothing for paying over money to his successor in office."

Section 54.275, RSMo 1959, provides in part:

"For the additional duties imposed upon county treasurers by section 146.056 RSMo, they shall receive the following additional compensation, to be paid in the same manner and from the same funds as county treasurers are now paid provided said treasurer shall have used diligence in securing and preparing the additional list and shall have forwarded the same to the director of revenue.

* * *

"(2) In class three counties having a population of less than twelve thousand five hundred, six hundred dollars per annum."

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Section 146.056, mentioned in the above section, requires the county treasurer to mail to each intangible taxpayer a form prepared and furnished by the Director of Revenue for use by such taxpayers in making his tax rate on intangible property. It also requires the county treasurer to mail a list of any additional names he has added to the list of intangible taxpayers as supplied by the Director of Revenue to the Director of Revenue.

Section 54.320, supra, provides the compensation to be allowed county treasurers of third and fourth class counties under township organization.

Section 54.320 has had no substantial change in language except as to amount of compensation, has been in effect many years and was in effect prior to the enactment of House Bill 199.

Section 54.275 was first enacted in 1951, Laws 1951, page 867 as part of House Bill 199, the title of the act being as follows:

"AN ACT relating to intangible personal property tax returns and to the duties of treasurers of counties under charter form of government and of the class two, three and four counties of the state and providing compensation for county treasurers for performing the additional duties required by this act."

Section 1 of House Bill 199 requires the State Director of Revenue to furnish forms for the use of taxpayers in making their returns for intangible property taxes. Section 2 of the act requires the county treasurer to mail these forms to each taxpayer listed as being subject to an intangible property tax. Section 3 of the act allowed additional compensation for the new duties imposed on county treasurers under the provisions of the act.

Section 1 of House Bill 199 expressly provided it was to be applied to county treasurers of each county under charter form of government and to the county treasurer of class two, three and four counties. A county treasurer is a county treasurer within this statute even though the county is under township organization. The duty of mailing the tax forms was placed upon county treasurers without regard to the form of county government and for such additional duties the county treasurers were allowed additional compensation as provided under Section 3 of House Bill 199.

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When House Bill 199 was enacted the compensation allowed county treasurers in counties under township organization was governed by Section 54.320, RSMo 1949.

County treasurers in other counties were allowed compensation under statutory provisions.

Section 1 of House Bill 199 is now designated in the Revised Statutes as Section 146.055, RSMo 1959. Section 2 of House Bill 199 is now Section 146.056, RSMo 1959. Section 3 of House Bill 199 is now Section 54.275, RSMo 1959. The fact that House Bill 199 has been separated and its sections given new section numbers and placed under different chapters under the Revised Statutes does not or should not change or alter their meaning. They must be construed as originally enacted. Their meaning and effect is the same as when they were originally enacted. In *Pierce City vs. Hentschel*, 210 S.W. 31, l.c. 32, the Supreme Court stated:

"A law as first enacted, with the provisions of which it originally formed a part, should be considered in ascertaining its meaning, rather than other laws with which it may be grouped in the Revised Statutes, *Timson v. Coke Co.*, 220 Mo. 580, 119 S.W. 565; *Paddock v. Railway Co.*, 155 Mo. 524, 56 S.W. 453; *Aloe v. Ass'n*, 164 Mo. 675, 55 S.W. 993. * * *"

The fact that Section 54.275 is now grouped with other statutes relating to county treasurers as separate from county treasurers under township organization does not restrict its application to county treasurers other than those under township organization. When first enacted it applied to all county treasurers and it must be so applied at the present time.

CONCLUSION

It is our opinion that county treasurers in class three and four counties under township organization are entitled to compensation as provided under Section 54.275, RSMo 1959, in addition to the compensation they are entitled to receive under Section 54.320, RSMo 1959.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,

MM:BJ

THOMAS F. EAGLETON
Attorney General