

FILED
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November 21, 1962

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

Dear Mr. Trigg:

We are in receipt of your request for an opinion as follows:

"In an opinion of October 26, 1951, issued to the Honorable Philip A. Grimes, Prosecuting Attorney of Boone County, prepared by Mr. D. D. Guffey and approved by Mr. J. E. Taylor, Attorney General, it was concluded, in part, that deputy assessors of third and fourth class counties are not covered under the provisions of the State Social Security Law. As a result of this opinion this office has refused coverage to such deputy assessors. Such cases have been processed by the Federal Social Security Agency as disagreement cases.

"With the passage of House Bill 635 of the last General Assembly, which became effective October 13, 1961, deputy assessors in third and fourth class counties have been covered. We are now being billed by the Federal Agency for contributions and interest covering periods prior to the passage of House Bill 635, and if we continue our policy of refusing payment I am sure it will be necessary for us to defend our position

in court. I am thus requesting that you review our position in light of the present statutes and advise this office of your recommendations in this matter."

In the opinion to Philip A. Grimes, referred to in your letter, this office concluded, in part, that deputy assessors in third and fourth class counties were not within the coverage of the Social Security Law under the provisions of Senate Committee Substitute for Senate Bill No. 3, enacted by the 66th General Assembly (Sections 105.300 to 105.440 RSMo). The basis of the ruling was that such deputies received no compensation from the county.

We have carefully reviewed the foregoing opinion and have concluded that it correctly states the applicable law. The enactment of House Bill 635, effective October 13, 1961, in no way changes the position of this office. If anything, the very fact that the General Assembly saw fit to broaden the definition of "employee" to make it cover county officers compensated wholly by fees derived from sources other than county funds evidences the legislative recognition that such officers were not theretofore covered as "employees" for the reason they receive no compensation from the county.

You have informed us that your request for an opinion is limited to the period prior to the passage of House Bill 635. Hence, we express no opinion as to whether the enactment of that Bill operated to bring deputy assessors of third and fourth class counties within the coverage of the Social Security Law effective October 13, 1961.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

JN:sr