

COUNTY COLLECTOR:
COUNTY OF THIRD CLASS:
COMMISSIONS:

- 1) A collector of a county of the third class with a population of over 40,000 is not required by Section 52.120, RSMo 1959, to maintain a branch office.
- 2) The additional compensation for maintaining such branch office as provided by Section 52.140, RSMo 1959, does not apply to counties of the third class with a population of over 40,000.

September 16, 1963

OPINION NO. 338

To the Honorable Haskell Holman
State Auditor
Jefferson City, Missouri



Dear Mr. Holman:

On August 12, 1963, you requested the opinion of this office in a letter which reads as follows:

"Several questions have arisen in the process of an audit of a county of the third class with a population in excess of forty thousand inhabitants on the basis of the 1960 census report as to the applicability of Section 52.120 R.S. Mo., 1959, together with a need for clarification of Section 52.140 R.S. Mo., 1959.

"I hereby request and will appreciate your official opinion relative to the following questions:

"1. Is a county collector in a county of the third class with a population in excess of forty thousand inhabitants, as determined by the 1960 decennial census, required or authorized to maintain a branch office under the provisions of Section 52.120 R.S. Mo., in a city of over fifteen thousand population and in which city there is a Court of Common Pleas?

"2. Would the collector of such county be entitled to the additional commission, as provided by Section 52.140, for maintaining the branch office after the population of the county exceeded forty thousand?"

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In answer to your first question it is necessary to look to the language of Section 52.120, R. S. Mo. 1959, which states:

"In all counties of the third class in this state that may now or hereafter have a population of twenty-five thousand and less than forty thousand, and in which there is a city of over fifteen thousand population, and in which said city there is a courthouse more than seven miles distant from the courthouse in the county seat, and in which said courthouse in said city there are held regular and legally established terms of court of common pleas, it shall be the duty of the collector of the revenues of such county to maintain in addition to his office at the county seat a branch office in the courthouse located in the said city of fifteen thousand population or more, for the convenience of the taxpayers of said county living within the jurisdiction of said court of common pleas."
[Emphasis ours]

The language of the statute in the underlined portion clearly shows that the Legislature intended that the statute be expressly limited to only those counties of the third class with more than twenty-five thousand and less than forty-thousand population. Therefore, the provision requiring maintenance of a branch office does not extend to counties of the third class whose population exceeds forty thousand.

Section 52.140 R.S. Mo. 1959, reads as follows:

"In all such counties where the collector of the revenue is required by section 52.120 to maintain a branch office as provided in section 52.120, he shall be allowed to retain, in addition to the amount now authorized by law, three-fourths of one per cent of all taxes collected to cover the additional expense of maintaining such branch office."

The underlined portion shows that the additional commission is allowed only where Section 52.120, supra, requires the

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branch office to be maintained. Since Section 52.120, supra, does not require maintenance of a branch office in counties of a third class with population over forty thousand, the collector may not retain the additional three-fourths of one per cent commission on all taxes which Section 52.140, supra, authorizes.

CONCLUSION

It is the opinion of this office that a collector of a county of the third class with a population of over forty thousand is not required by Section 52.120 R. S. No. 1959, to maintain a branch office. Further, the additional commission for maintaining such branch office as provided by Section 52.140 R.S. No. 1959, does not apply to counties of the third class with a population of over forty thousand.

The foregoing opinion, which I hereby approve was prepared by my assistant, Jeremiah D. Finnegan.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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