

March 4, 1964



Honorable Maurice Schechter
State Senator, 13th District
41 Country Fair Lane
Creve Coeur 41, Missouri

Dear Senator Schechter:

This is in response to your request for an opinion dated February 11, 1964. Your request reads as follows:

"One of the fourth class cities in St. Louis County elects its Marshall-Collector each two years and by ordinance pays him a salary of \$575.00 per month.

"The Board of Aldermen of such city has recently passed an ordinance whereby the salary of the Marshall-Collector shall be increased progressively and such ordinance is as follows:

"Starting salary - \$527.00 per month
After 12 months service - \$553.00 per month
After 24 months service - \$581.00 per month
After 36 months service - \$610.00 per month
After 48 months service - \$641.00 per month
After 66 months service - \$673.00 per month.

"Involved herein is whether the progressive increase in salaries is in violation of the constitutional prohibition increasing salaries during the term of office of an elected official without giving him increased duties.

"May I please have your opinion respecting the validity of such an ordinance."

As we understand the facts submitted in your letter, the city officer in question has been elected for a two-year term and an ordinance was passed prior to the beginning of this two-year term, fixing his salary at \$575 per month. You further indicate that recently the city, by ordinance, has provided

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for a progressive increase in salary based on length of service. It is our understanding that you desire to know whether these progressive increases can be made effective during the current two-year term of the officer involved.

We believe that both the statutes and the State Constitution prohibit an increase of this type. Section 79.270, RSMo 1959, which is applicable to fourth class cities provides as follows:

"The board of aldermen shall have power to fix the compensation of all the officers and employees of the city, by ordinance. But the salary of an officer shall not be changed during the time for which he was elected or appointed."
(Emphasis supplied)

Article VII, Section 13 of Missouri's Constitution reads as follows:

"The compensation of state, county and municipal officers shall not be increased during the term of office; nor shall the term of any officer be extended."

It appears that the ordinance which you describe, as applied to an officer already elected for a current term, would be in violation of the above provisions. Our office issued official opinion No. 172 on May 24, 1963, to the Honorable John L. Fitzgerald, Member, Missouri House of Representatives. This opinion involved similar facts and we are enclosing a copy of it for your convenience.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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