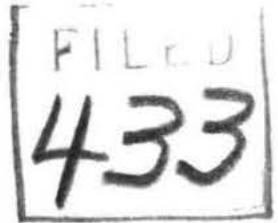


PROSECUTING ATTORNEYS: The compensation provided for by  
COUNTY OFFICERS: Senate Bill No. 355 enacted by the  
SALARIES: 73rd General Assembly applies during  
BUDGET LAW: the present term of office.

OPINION NO. 433

December 2, 1965

Honorable Haskell Holman  
State Auditor  
Jefferson City, Missouri



Dear Mr. Holman:

This is in answer to your request for an opinion on the following question:

"Are Prosecuting Attorneys of third and fourth class counties entitled to receive, on and after October 13, 1965, the additional compensation as set forth in Senate Bill 355 enacted by the Seventy-Third General Assembly or does the provision of Section 13, Article VII of the Constitution prohibit said increase during the present term of such officer?"

Senate Bill No. 355 was enacted by the 73rd General Assembly as Section 56.291, V.A.M.S. September 1965 Pamphlet, and reads in part as follows:

"The prosecuting attorney in counties of the third and fourth class, in addition to his other duties provided by law, shall submit to the attorney general of the state of Missouri, a written brief summarizing the facts and law of the lower court proceedings had in all criminal cases appealed to the supreme court from the county of his jurisdiction and as compensation shall receive in addition to the compensation provided by law, \* \* \* to be paid monthly in the same manner as the prosecuting attorney's compensation. \* \* \*"

Section 13 of Article VII of the Missouri Constitution reads as follows:

Honorable Haskell Holman

"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."

In Little River Drainage District v. Lassater, 325 Mo. 493, 29 S.W.2d 716, 719, the Missouri Supreme Court said this:

"[6] The constitutional inhibition only applies to compensation or fees of officers for performing duties incident to their offices, and has no application to additional duties imposed upon such officers not ordinarily incident to their offices. \* \* \*"

It is our opinion that Senate Bill No. 355 imposes on prosecuting attorneys of third and fourth class counties additional duties not ordinarily incident to their office. Therefore, the compensation provided is due during the present term of such prosecutors.

Senate Bill No. 355 also provides for the yearly compensation to be paid monthly. Enclosed is a copy of Attorney General Opinion, dated June 5, 1953, to the Honorable Charles E. Murrell, Jr., which this office still adheres to. Following the Murrell opinion the compensation provided for in Senate Bill No. 355 is to be prorated each month on a yearly basis so that each month 1/12th of the compensation is to be paid. For 1965 compensation would be due for November and December and the proportionate part of October dating from the thirteenth.

Also enclosed is a copy of Attorney General Opinion, dated July 18, 1949, to the Honorable Joe C. Welborn, holding that such compensation is automatically included within the budget of third and fourth class counties.

#### CONCLUSION

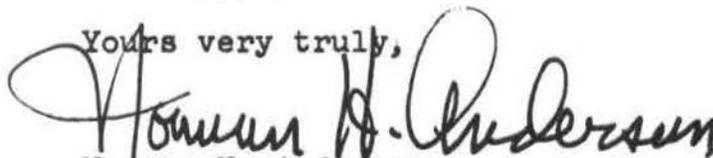
It is the opinion of this office that the compensation provided for by Senate Bill No. 355 enacted by the 73rd

Honorable Haskell Holman

General Assembly applies during the present term of office.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Walter W. Nowotny, Jr.

Yours very truly,

A handwritten signature in cursive script that reads "Norman H. Anderson". The signature is written in dark ink and is positioned above the typed name and title.

Norman H. Anderson  
Attorney General

Enclosures (opinions): 6-5-53, to Murrell  
No. 95, to Welborn, 7-18-49