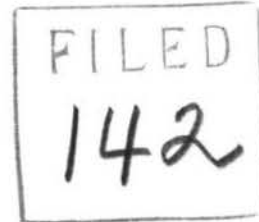


MAGISTRATES: Pursuant to Section 483.485, RSMo Cum. Supp.  
MAGISTRATE COURTS: 1965, a county court determines the need for  
EMPLOYEES: additional employees of a magistrate court and  
COMPENSATION: also determines the amount of salary to be paid  
COUNTIES: from the county funds.  
COUNTY COURTS:

OPINION NO. 142

February 21, 1967

Honorable Peter H. Rea  
Prosecuting Attorney  
Taney County  
Forsyth, Missouri



Dear Mr. Rea:

This is in response to your request for an opinion from this office, which request states the following:

"Taney County Magistrate Court Judge J. C. Crouch for the coming year by order of his Court, ordered, pursuant to the above section that additional help was required and needed in his office, and he appointed same and set their pay. The total pay allowed the Magistrate for help from the State of Missouri under 483.490 is \$3,000.00, which sum has always been used in full. The new appointments and the new pay scale places the matter now to the position that the County must pay, if anyone is paid under that part of 483.485 which reads as follows:

---'Provided, that in any County where need exists, the County Court is hereby authorized, at the costs of the County, to provide such additional clerks or other employees as may be required and to provide funds for the payment of salaries or parts of salaries of clerks, deputy clerks and other employees in addition to the amounts payable by the State under this section.

The County Court of Taney County, in preparing the budget for 1967 is faced with the new salaries and employees appointed by the Magistrate Judge. The

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Court recognizes that they cannot and do not attempt to have anything to do with the part paid by the State. My question is, however, under this section, Does the County Court of Taney County have discretion to pay or not to pay said additional sums; also, who makes the finding of whether their is need, and if the Magistrate Court makes such a finding, is the County Court bound by it."

It should be noted that Taney County, according to the 1960 census, has a population of 10,238 and an assessed valuation of \$18,187,413.00. You informed this office by phone that the Taney County Magistrate Court is the only magistrate court in the county.

I first direct your attention to Section 483.485, RSMo Cum. Supp. 1965, which states in part:

"In all counties each magistrate shall by an order duly made and entered of record appoint and fix the salary of a clerk of his court and may appoint such deputies and employees as may be necessary for the proper dispatch of the business of his court and fix their salaries at such sum as in his discretion may seem proper. The total salaries of clerk, deputies and other employees paid by the state shall in no event exceed the annual amount fixed in section 483.-490 for clerk and deputy clerk hire of such courts; provided, that in any county where need exists, the county court is hereby authorized, at the cost of the county, to provide such additional clerks, deputy clerks or other employees as may be required and to provide funds for the payment of salaries or parts of salaries of clerks, deputy clerks and other employees, in addition to the amounts payable by the state under section 483.490. . . "

Section 483.490, supra, states in part:

"1. Salaries of clerks, deputy clerks and employees provided for in section 483.485 shall be paid by the state within the limits herein provided upon requisition filed by the judges of the magistrate courts; except that the salaries of clerks, deputy clerks and employees of additional

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magistrates whose offices are created by order of the circuit court as provided in section 482.010, RSMo, shall be paid by the county as the salaries of such magistrates are required to be paid. The total amount that may be paid by the state in any one year for such clerks, deputy clerks and employees of the magistrate courts in the different counties shall not exceed the following sums: . . . "

Subsection (3) of Section 483.490, supra, is applicable to Taney County because of the assessed population and valuation noted previously. Subsection (3) states:

"(3) In all counties now or hereafter having a population of ten thousand seven hundred and fifty inhabitants or less, with an assessed valuation of over eleven million dollars, the sum of three thousand dollars; . . . "

Paragraph 2 of Section 483.490 states:

"2. The salaries of such clerks, deputy clerks and employees shall be fixed by the magistrate, or magistrate court if the magistrates are organized into a court with divisions. When the judge of the probate court is also judge of the magistrate court, such judge, in his discretion, may designate one or more of such clerks, deputy clerks, or employees as clerks, deputies or employees in the probate court."

The exception clause in paragraph 1 of Section 483.490, supra, would not apply here as the magistrate court in question is not an "additional magistrate court" created by authority of Section 482.010, RSMo.

There is no prohibition against the county paying a duly appointed deputy clerk or employee of a magistrate court a salary in addition to the salary received by deputy clerks or employees paid by the State. As noted in an opinion to Mr. Raymond Vogel, 1950, No. 92, enclosed herewith, the authority for such additional compensation is derived from the language found in Section 483.485, supra, stating that the county is authorized to provide additional employees and salaries ". . . in addition to the amount payable by the state. . . "

The language found in Section 483.485 has been construed in State<sup>4</sup> ex rel. Hart vs. City of St. Louis, 204 S.W. 2d 234, 238, as follows:

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"\* \* \* provided, that in any county where need exists, the county court is hereby authorized, at the cost of the county, to provide such additional clerks, deputy clerks or other employees as may be required.' There can be no doubt that the Board of Aldermen, acting in its capacity as a county court, had the right to determine the need for additional clerks, deputy clerks and other employees at the expense of the city. . . "

It would therefore appear that if county funds are to be used for salaries in compliance with the statutes cited, the county court has the authority to determine if the magistrate court is in need of additional employees. It would follow that the amount of salary, if any, to be paid over and above the amount provided by the State would be left to the discretion of the county court.


The questions you asked, therefore, are answered by the language found in State ex rel. Hart v. City of St. Louis, supra, and therefore it is the opinion of this office that the county court decides if there is a need for additional employees to assist the magistrate and further determines the amount to be paid for salaries from county funds.

CONCLUSION

Pursuant to Section 483.485, RSMo Cum. Supp. 1965, a county court determines the need for additional employees of a magistrate court and also determines the amount of salary to be paid from the county funds.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Gerald L. Birnbaum.

Very truly yours,

  
NORMAN H. ANDERSON  
Attorney General

Enc: Op. No. 92, 1950, Vogel