



December 5, 1968

OPINION NO. 398  
Answered by letter-Wieler

Honorable Bill Crigler  
State Representative - District 118  
Missouri House of Representatives  
402 West Morrison  
Fayette, Missouri 65248

Dear Representative Crigler:

This is in response to your request for an opinion concerning the rate of compensation to which a county collector of a third class county is entitled by reason of the collection of taxes for a levee district organized by the circuit court under Chapter 245, RSMo.

As you pointed out in your letter, there is a discrepancy between Sections 52.275, RSMo 1967 Supp. and 245.250, RSMo 1959, with regard to the rate of compensation. Section 52.275 reads:

"The county and township collectors for collecting taxes for drainage and levee districts shall receive the following amount: In counties of the second class having less than one hundred thousand inhabitants and in counties of the third class, one and one-half per cent of the amount he collects on current taxes; in counties of the third class where the collector is required by law to maintain a branch office, two and one-fourth per cent of the amount he collects on current taxes; in counties of the fourth class, two per cent of the amount he collects on current taxes; and in counties of the second class having less than one hundred thousand inhabitants and in all counties of the third

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and fourth classes, two per cent of the amount he collects on delinquent drainage and levee taxes."

Section 245.250 reads:

". . . The said collector shall retain for his services one per cent of the amount he collects on current taxes and two per cent of the amount he collects on delinquent taxes."

The variance of one-half per cent between these sections in the rate of compensation for the collection of current taxes by a county collector in a third class county without a branch office was probably caused by legislative oversight during one of the frequent revisions. It is quite likely that members of the General Assembly forgot about the rate provisions being in two separate places when they raised the compensation rate in Section 52.275 (A. L. 1955 p. 368).

Since both sections refer specifically to the collection of taxes in a levee district, it is our opinion that the latest section, from the point of time, should be followed. This best expresses the legislative intent with regard to the rate of compensation. Therefore, Section 52.275, RSMo 1967 Supp. is controlling. It is our view that this is not contrary to the principle that Chapter 245 is a "code within itself," *McCord v. Missouri Crooked River Backwater Levee District*, 295 S.W.2d 42, 45 (Mo. 1956), because Section 52.275 as amended in 1955 refers specifically to levee tax commissions and prevails over Section 245.250 enacted in 1913, (Section 22, Laws 1913, p. 303) insofar as compensation for collection of current levee taxes is concerned.

Also, we reaffirm Attorney General's Opinion No. 28, issued to Mr. Bert Femmer on February 4, 1952 (copy enclosed). It is our feeling that this opinion still correctly expresses the construction to be given Sections 52.230, 52.240, and 52.250, RSMo 1959, with regard to drainage taxes.

Yours very truly,

NORMAN H. ANDERSON  
Attorney General

Enclosure - Op. No. 28  
2-4-52, Femmer