

COMPENSATION:
MAGISTRATES:
RETIREMENT:

A magistrate who retired on her sixty-fifth birthday prior to the enactment of 476.456 by House Bill 216 of the Seventy-Fifth General Assembly after having served twenty-two years as a magistrate is entitled to the benefits afforded by Section 476.450 and can elect to become a special commissioner and receive compensation of one-third the compensation provided by law from the office from which she has retired.

September 9, 1969

OPINION NO. 358

Mr. Clifford B. Mayberry
Assistant Prosecutor
Adair County
213 West Washington
Kirksville, Missouri 63501



Dear Mr. Mayberry:

This is in response to your request for an opinion concerning the retirement benefits available to magistrates. Your request is as follows:

"The question has arisen as to whether a magistrate who has retired on her sixty-fifth birthday, but whose term of office has not yet expired, is eligible for retirement under House Bill No. 216. The subject magistrate has had some twenty-two or more years' service as magistrate. Her term is now being served by an interim judge who was appointed by the Governor and then elected to serve out the remainder of her term at the last general election. The question, of course, is whether this judge is eligible for retirement compensation under Section 476.450 of the statutes."

House Bill No. 216 of the Seventy-Fifth General Assembly was recently signed by the Governor and will become effective October 13, 1969. This Bill amends Chapter 476, RSMo and inserts a new Section, 476.456, which reads of follows:

Mr. Clifford B. Mayberry

"1. Any person whether or not a licensed attorney having reached the age of sixty-five years, and having any prior judicial service except as a police judge, or justice of the peace of twelve years or more at the time of the passage of this act or having served an aggregate of twelve years continuously or otherwise as judge or commissioner of any of the courts provided for under the provisions of sections 16 and 18, article V of the constitution, shall have the same rights and privileges upon the same conditions as are provided for the judges and commissioners specified in section 476.450.

"2. Any judge presently serving as a magistrate or probate judge is entitled to include any time he has served as a justice of the peace of this state in computing the prior judicial service required by this section."

By the plain terms of Section 476.456 the persons enumerated in this Section shall have the same rights and privileges upon the same conditions as are provided for in Section 476.450. Section 476.450, RSMo provides that certain judges and commissioners can elect to be appointed special commissioners at a compensation of one-third the compensation provided by law for the offices from which they have retired. From the facts that you have given us, as recited above, it appears that the magistrate in question satisfies the requirement set forth in Section 476.456. The magistrate to which you refer has reached the age of sixty-five years and has had prior judicial service in excess of twelve years at the time of the passage of Section 476.456. She has served as a magistrate which is the court provided for in Section 18, Article V of the Constitution.

Therefore, it is our opinion that a magistrate who has served in accordance with the facts as you set out would be entitled to the rights and privileges provided in Section 476.450.

CONCLUSION

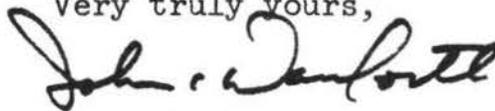
It is the opinion of this office that a magistrate who retired on her sixty-fifth birthday prior to the enactment of

Mr. Clifford B. Mayberry

476.456 by House Bill 216 of the Seventy-Fifth General Assembly after having served twenty-two years as a magistrate is entitled to the benefits afforded by Section 476.450 and can elect to become a special commissioner and receive compensation of one-third the compensation provided by law from the office from which she has retired.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Craft.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General