

SHERIFFS:  
COMPENSATION:  
FEES:  
LEGISLATION:  
AUDITOR:

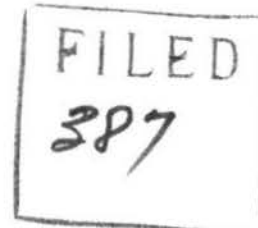
Senate Bill No. 165 of the 75th  
General Assembly relating to  
sheriffs of class three and class  
four counties provides for compen-  
sation for such sheriffs which is  
in addition to other compensation

now provided by law and is effective October 13, 1969. Senate  
Bill No. 165, however, limits the total compensation of all  
sheriffs of counties of the third class with an assessed valua-  
tion of less than \$20 million to \$10,000 per year, excluding  
mileage.

OPINION NO. 387

October 9, 1969

Honorable Robert B. Paden  
Prosecuting Attorney  
DeKalb County  
P. O. Box 301  
Maysville, Missouri 64469



Dear Mr. Paden:

This official opinion is issued in response to the request  
contained in your letter dated August 26, 1969.

The question presented is whether or not Senate Bill No.  
165, 75th General Assembly of the State of Missouri, entitled  
"AN ACT Relating to sheriffs", increases the compensation pay-  
able to sheriffs of third class counties above that already pro-  
vided in Sections 57.390, 57.405 and 57.430, RSMo 1959.

Apparently, there is some feeling that moneys to be paid  
sheriffs under Senate Bill No. 165 are to be paid in lieu of and  
not in addition to the compensation and expenses provided in the  
sections of the statutes to which reference has been made. Senate  
Bill No. 165 was passed by the General Assembly and signed by the  
Governor on August 11, 1969, and provides as follows:

"1. The sheriff in counties of the third  
class shall on January first of each year  
and every three months thereafter file with  
the circuit court of the county a report on  
the conditions of the county jail, the num-  
ber of prisoners confined in the jail, to-  
gether with recommendations relating to its  
operation.

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"2. In addition to the salary, travel expenses, reimbursement expenses, and any other compensation now provided by law, the sheriff in each county of the third class, for the performance of these duties, shall receive the following sums per year: In counties having a population of less than seven thousand five hundred, the sum of six thousand eight hundred dollars; \* \* \* payable in twelve equal monthly installments out of the county treasury, by warrants drawn by the county court upon the county treasury.

"3. In counties of the third class after the passage of this act the sheriff shall pay all fees collected by him in civil matters, and which were previously retainable by him, into the county treasury, except charges for each mile traveled, allowable to him, which he may retain, in serving civil process.

\* \* \*

"Notwithstanding other provisions of this act the total compensation of sheriffs of counties of the third class with an assessed valuation of less than \$20 million shall not exceed \$10,000 excluding mileage."

The question should be considered in the light of Article VII, Section 13, Missouri Constitution, which limits increases in compensation under certain circumstances. The constitutional provision is as follows:

"Limitation on increase of compensation and extension of terms of office. - - 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."

The express language of Senate Bill No. 165 is that the compensation provided therein shall be "in addition to the salary, travel expenses, reimbursement expenses and any other compensation now provided by law." This language, however, is limited somewhat by the provisions of the bill requiring the sheriff to pay all fees collected by him in civil matters, and which were previously retained by him, into the county treasury except charges for mileage in serving civil process.

Section 57.390, RSMo 1959, relating to class three counties,

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provides compensation for the arrest, care and handling of persons accused of crime. It makes no provision for filing reports on the conditions of the county jail as contemplated by the Bill. Section 57.405 allows additional compensation to sheriffs of class three and class four counties. Section 57.430 allows sheriffs and their deputies actual and necessary expenses in connection with serving warrants or other criminal process, and investigation of persons accused of or convicted of criminal offenses. It will be observed that none of these statutes relate to the filing of county jail condition reports.

Section 57.102, RSMo Supp. 1967, requires that sheriffs in second class counties file periodic reports on the condition of the county jail, and the number of prisoners confined in the jail together with recommendations relating to its operation. Senate Bill No. 165 imposes the same obligation on sheriffs of counties of the third and fourth classes. The duties thus imposed by Senate Bill No. 165 are additional duties for which additional compensation is to be paid.

Under these circumstances, there is no constitutional objection inasmuch as additional duties are imposed upon sheriffs of third class counties by the new statute. Likewise, Senate Bill No. 165 did not repeal any of the prior statutory enactments relating to compensation of sheriffs of third class counties.

Inasmuch as DeKalb County, Missouri has an assessed valuation exceeding \$20,000,000, the limitation on total compensation contained in the last paragraph of Senate Bill No. 165, quoted above, does not apply. The population of the county is less than 7,500. Therefore, the additional compensation for such sheriff is \$6,800 per year.

We note that the bill does contemplate that the report be filed on January first of each year and every three months thereafter. Presumably, however, the legislature considered that the preparation of the report would require that the sheriffs of counties of the third class perform work prior to January 1, 1970. In our view, Senate Bill No. 165 will become effective October 13, 1969, and the compensation therein provided will be pro-rated from October 13, 1969, to the end of the year.

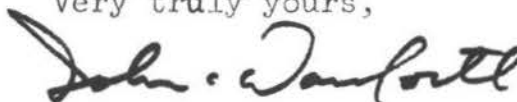
#### CONCLUSION

It is therefore the opinion of this office that Senate Bill No. 165 of the 75th General Assembly relating to sheriffs of class three and class four counties provides for compensation for such sheriffs which is in addition to other compensation now provided by law and is effective October 13, 1969. Senate Bill No. 165, however, limits the total compensation of all sheriffs of counties of the third class with an assessed valuation of less than \$20 million to \$10,000 per year, excluding mileage.

Honorable Robert B. Paden

The foregoing opinion, which I hereby approve, was prepared by my assistant John E. Park.

Very truly yours,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned above the typed name.

JOHN C. DANFORTH  
Attorney General