

COMPENSATION:
COUNTY TREASURER:

The county treasurer in a third class county not under township organization is entitled to the additional compensation provided for in Section 54.275, RSMo 1969, in addition to the compensation provided for under Section 54.260, RSMo 1969.

OPINION NO. 85

February 5, 1971

Honorable James Millan
Prosecuting Attorney
Pike County Court House
Bowling Green, Missouri



Dear Mr. Millan:

In your letter of December 29, 1970, you requested an opinion from this office as follows:

"I have been requested by our County Court and County Treasurer to request an opinion with respect to compensation for the County Treasurer. Of course, Section 54.260 which was adopted in 1969 provides for the general salary for the County Treasurer.

"However, I call to your attention Section 54.275 which provides for additional compensation for the Treasurer in the handling of intangible tax returns and reporting new names to the Department of Revenue.

"My question is, is the County Treasurer to receive the additional compensation provided for under Section 54.275 in addition to the compensation provided in Section 54.260, in the event the County Treasurer performs the additional duties set forth in Section 54.275?

"In the event you already have such an opinion you may simply send me a copy of one previously entered. If not, may I have a new opinion on this matter."

Pike County is a third class county.

Section 54.260, RSMo 1969, provides:

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"The county treasurers in counties of the third class of this state, except counties under township organization, shall receive for their services annually the following sums: In counties having less than seven thousand five hundred inhabitants, the sum of four thousand five hundred dollars; in counties having more than seven thousand five hundred inhabitants and less than ten thousand, the sum of four thousand six hundred dollars; in counties having more than ten thousand inhabitants and not more than twelve thousand five hundred, the sum of four thousand seven hundred dollars; in counties having more than twelve thousand five hundred inhabitants and not more than fifteen thousand, the sum of five thousand dollars; in counties having more than fifteen thousand inhabitants and not more than twenty thousand, the sum of five thousand four hundred dollars; in counties having more than twenty thousand inhabitants and not more than thirty thousand, the sum of five thousand seven hundred dollars; in counties having more than thirty thousand inhabitants but not more than thirty-five thousand, the sum of five thousand nine hundred and fifty dollars; in counties having more than thirty-five thousand inhabitants but not more than forty thousand, the sum of six thousand four hundred dollars; and in counties having more than forty thousand inhabitants, the sum of six thousand seven hundred dollars."

Section 54.275, RSMo 1969, provides:

"For the additional duties imposed upon county treasurers by section 146.056, RSMo, they shall receive the following additional compensation, to be paid in the same manner and from the same funds as county treasurers are now paid provided said treasurer shall have used diligence in securing and preparing the additional list and shall have forwarded the same to the director of revenue:

(1) In class four counties six hundred dollars per annum.

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(2) In class three counties having a population of less than twelve thousand five hundred, six hundred dollars per annum.

(3) In class three counties having a population of more than twelve thousand five hundred but less than thirty thousand, eight hundred dollars.

(4) In class three counties having a population of more than thirty thousand, one thousand dollars.

(5) In class two counties, one thousand dollars.

(6) In counties under charter form of government a compensation to be fixed by the county council."

Section 54.275, supra, was enacted in 1951, Laws of 1951, page 867 and has been in its present form since that date.

Section 54.260, RSMo 1959, provided that county treasurers in counties of the third class should receive for their services annually compensation based upon the population of the counties with the further proviso as follows:

". . . The salaries are in lieu of any other or additional salaries, fees, commissions or emoluments of whatsoever kind."

Section 54.260, RSMo 1959, which contained the above proviso, was repealed by the 71st General Assembly, 1961, House Bill No. 521, Laws 1961, page 289, and was reenacted by providing for an increase in salaries for each county treasurer as stated therein. However, the new section as enacted omitted that provision which stated that the salaries as stated therein would be in lieu of all other or additional compensation.

The cardinal rule of statutory construction is to ascertain the intention of the legislature and as far as possible give effect to the intention as expressed, Household Finance Corporation v. Robertson, 364 S.W.2d 595. In construing a statute repealing one statute and substituting another, the court must assume that the legislature intended something by the repeal of the old and enactment of another in lieu of the other, Darrah v. Foster, 355 S.W.2d 24.

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It is the opinion of this office that when the General Assembly in 1961 repealed Section 54.260, RSMo 1959, which provided that the salaries stated therein were in lieu of all other or additional compensation, and enacted a new section providing for an increase in salary but omitting the provision that such salaries were in lieu of all other or additional compensation, the legislature intended that the salaries as stated therein should not be exclusive of all other or additional compensation provided by law, and that the county treasurers would be entitled to the additional compensation provided for in Section 54.275, RSMo.

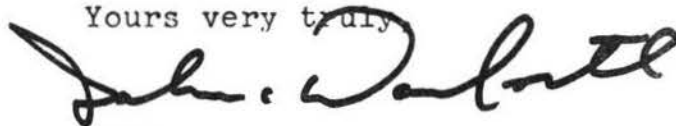
We are enclosing Opinion No. 21 issued by this office on February 21, 1962, holding county treasurers in class three and four counties under township organization are entitled to the additional compensation under Section 54.275, RSMo.

CONCLUSION

It is the opinion of this office that the county treasurer in a third class county not under township organization is entitled to the additional compensation provided for in Section 54.275, RSMo 1969, in addition to the compensation provided for under Section 54.260, RSMo 1969.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 21
2-21-62, Leopard