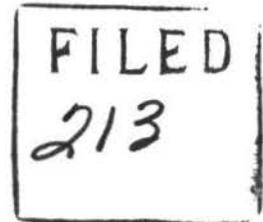


October 15, 1975

OPINION LETTER NO. 213
Answer by Letter - Klaffenbach

Honorable Margaret Miller
State Representative, District 145
Post Office Box 72
Marshfield, Missouri 65702



Dear Mrs. Miller:

This letter is in response to your inquiry asking:

"Under Senate Bill 95 as enacted by the 78th General Assembly, is there an obligation that county judges in second, third and fourth class counties participate actively in all councils and agencies referred to, either specifically or in general, in the bill in order to receive an increase in pay as provided?"

You also state:

"There are certain of the agencies mentioned in the statute to which the court of Webster Co. does not belong and others to which it is not eligible."

The legislation to which you refer, Senate Bill 95 of the 78th General Assembly, provides:

"Section 1. For the benefit of the executive branch and members and staff of the general assembly, in determining local needs in appropriation of funds of the state, the judges of the county court in all counties of the second, third and fourth class shall

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file with the office of administration, committee on state fiscal affairs, and the state auditor copies of summarized reports of all funds received from any agency of the United States government. Further, judges of the county court, collectively or by designation of the presiding judge, shall represent the county on the following regional councils which may encompass their county: manpower planning; aging; health planning; law enforcement assistance; community action; countywide sewer districts; solid waste management; county planning and zoning; university of Missouri extension; future boards, commissions and councils relating to health, education or welfare of the citizens as established by executive or legislative action of the government of the United States or of the state; and such other councils and organizations relating to operations of counties as from time to time may be created.

"Section 2. 1. As compensation for the extra duties imposed by section 1 of this act, each judge of the county court in counties of the second class shall receive, in addition to all other compensation provided by law, an annual sum to be paid out of the county treasury based upon the assessed valuation of the county as follows:

Assessed Valuation of the County	Amount of Salary
Less than \$150,000,000	\$1,200.00
More than \$150,000,000	\$1,500.00

"2. As compensation for the extra duties imposed by section 1 of this act, each judge of the county court in counties of the third and fourth class shall receive, in addition to all other compensation provided by law, an annual sum to be paid out of the county treasury based upon the assessed valuation of the county as follows:

Assessed Valuation of the County	Amount of Salary
Less than \$25,000,000	\$1,000.00
More than \$25,000,000	\$1,200.00"

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It is our view that the judges of the county courts are entitled to the extra compensation even though they may not be actively participating in all the councils and agencies referred to either specifically or in general in the legislation. We reached this view because under the holding of State v. Carpenter, 388 S.W.2d 823 (Mo. Banc 1965), an officer is entitled to the compensation provided by statute for the performance of duties by such officer even though it is impossible for him to perform such duties.

We therefore conclude that the judges of the county court are entitled to the extra compensation provided even though they may not be actively involved in all the organizations enumerated in Senate Bill 95.

Very truly yours,

JOHN C. DANFORTH
Attorney General