



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

September 8, 1976

OPINION LETTER NO. 161

Mr. Alfred C. Sikes
Department of Consumer Affairs,
Regulation and Licensing
505 Missouri Boulevard
Jefferson City, Missouri 65101

Dear Mr. Sikes:

This is in response to your request for an opinion on the following question:

"Does the Director of the Department of Consumer Affairs, Regulation and Licensing have the authority to establish and set the rate of compensation for the Commissioner of the Administrative Hearing Commission?"

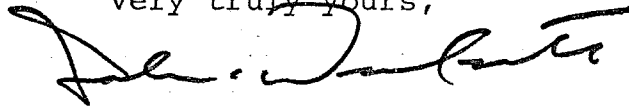
As you indicated in your opinion request, the Administrative Hearing Commissioner holds office for a six year term and the present term will expire in October, 1977. Article VII, Section 13 of the Constitution prohibits an increase of the compensation of a public officer during his term of office. The prohibition of that section refers to the fixed term set by statute and not to the individual who may happen to be the incumbent. State ex rel. Emmons v. Farmer, 196 S.W. 1106 (Mo. Banc 1917). Therefore, because of the constitutional prohibition contained in Article VII, Section 13, the salary of the Administrative Hearing Commissioner may not be increased during the present term.

The Administrative Hearing Commission was transferred to the Department of Consumer Affairs, Regulation and Licensing by a type III transfer pursuant to Section 4.(4) of the Omnibus State Reorganization Act of 1974. This office held in Opinion

Mr. Alfred C. Sikes

No. 53, March 18, 1975, that heads of state departments have authority under the Omnibus State Reorganization Act of 1974 to set the salary of division directors and other administrative positions of departments subject to legislative appropriations. Therefore, while the constitutional prohibition of Article VII, Section 13, prevents you from increasing the salary of the Administrative Hearing Commissioner during the term that will expire in October of 1977, you have authority to determine the salary pursuant to Section 7.6(2) of the Omnibus State Reorganization Act of 1974 for future terms.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 53,
3/18/75, Garrett