

Answer by letter-Wieler

August 19, 1969

OPINION LETTER NO. 304

Honorable Lawrence J. Lee  
State Senator, District 3  
506 Olive Street  
St. Louis, Missouri



Dear Senator Lee:

This is in response to your request for an opinion from this office concerning the pay of a retired Circuit Court Judge of the City of St. Louis who has elected to become a special commissioner under the provisions of Section 476.450, RSMo 1959. Specifically, you ask whether or not a retired St. Louis City Circuit Court Judge who has elected to come under the provisions of Section 476.450 is entitled to one-third of his total salary as Circuit Court Judge or only one-third of the salary which was paid by the state.

Section 476.450, RSMo 1959, provides:

"Any person having reached the age of sixty-five years and having in this state served an aggregate of twelve years, continuously or otherwise, as a judge or commissioner of the supreme court, or as a judge or commissioner of any of the courts of appeals, or as a circuit judge, or as a judge of a court of criminal correction, or as a judge of a court of common pleas, or either or both as judge or commissioner of any of said courts, and who shall have ceased to hold such office by reason of the expiration of his term, or voluntary resignation or retirement by reason of having reached the age of seventy-five years, under section 25, article V, of the Constitution of Missouri, shall, if he so elects as hereinafter provided, be made, constituted

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and appointed a special commissioner or referee for and during the remainder of his life and shall, while he remains a resident of Missouri, be entitled to and shall receive as annual compensation, salary or retirement compensation during the remainder of his life a sum equal in amount to one-third the salary or compensation then or thereafter provided for by law for the office from which he has retired, and said sum shall be payable monthly out of the general revenue of the state of Missouri."

It is very clear from the terms of this statute that a new special commissioner is to receive as salary an amount equal to one-third of the salary provided for by law for the office from which he has retired. Therefore, the fact that a St. Louis City Circuit Court Judge receives part of his annual judge's salary out of the state treasury and part from the city pursuant to Section 478.013, RSMo Supp. 1967, is of no consequence.

It is our opinion that a retired St. Louis City Circuit Court Judge who has accepted a position as a special commissioner pursuant to Section 476.450, RSMo 1959, is entitled to one-third of the total salary provided for the office from which he has retired.

Yours very truly,

JOHN C. DANFORTH  
Attorney General