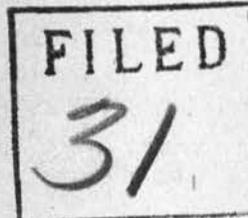


COUNTY TREASURER ) Salary in counties of the fourth class under  
) township organization determined according to  
) statute fixing salary of treasurers in fourth  
) class counties generally.

April 19, 1950

4/26/50



Honorable Edwin Frieze  
Prosecuting Attorney  
Dade County  
Greenfield, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"As Dade County is a fourth class county and under township organization there is a question as to what is the salary of the County Treasurer. The population of the County is eleven thousand plus (11248). After reviewing Sec 13993 of the Revised Statutes of 1939 and then Laws of Missouri 1945 at page 1541 what should the salary of the County Treasurer be. In the Laws of Missouri of 1945 on page 1540 a law is provided for compensation of Treasurers in third-class counties and that law excludes counties under township organization but the law governing fourth class counties on page 1541 does not exclude counties under township organization. If you find that Sec. 13993 of the Revised Statutes is still in effect does the County Court have the authority to raise the Treasurer's salary above the \$100 as set out in that section."

The salaries of county treasurers in fourth class counties generally are fixed by an act found in Laws of Missouri, 1945, page 1541. That act provides:

"The county treasurers in counties of the fourth class of this State shall receive for their services annually, to be paid out of the county treasury in equal monthly installments at the end of each month by a warrant drawn

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by the county court upon the county treasury, the following sums: In counties having 10,000 inhabitants or less, the sum of \$1,200; in counties having more than 10,000 inhabitants and not more than 12,500, the sum of \$1,500; in counties having more than 12,500 inhabitants and not more than 15,000, the sum of \$1,800; and in counties having more than 15,000 inhabitants, the sum of \$2,200; provided, salaries set out and prescribed in this section shall be in lieu of any other or additional salaries, fees, commissions or emoluments of whatsoever kind for county treasurers in all counties of this state to which this section, by its terms, applies, the provisions of any other statute of this state to the contrary notwithstanding."

Section 13993, R. S. Missouri, 1939, provided:

"The county treasurer in counties adopting township organization shall be allowed a salary of not less than \$100.00 per month by the county court to be paid as at present provided by law; the ex officio collector for collecting and paying over the same shall be allowed a commission of two per cent (2%) on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent (2%) on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes: provided, he shall receive nothing for paying over money to his successor in office."

This section was repealed by House Bill No. 80 of the Sixty-fifth General Assembly, approved April 26, 1949, and effective October 14, 1949, and a new section enacted in lieu thereof. The only change made was to increase the commission allowed the collector on corporation taxes, back taxes, licenses, merchants' tax and railroad tax from two per cent to three per cent.

House Bill No. 2012 of the Sixty-fifth General Assembly, effective April 14, 1950, repealed House Bill No. 80, and enacted a new section in lieu of Section 13993 of House Bill No. 80. That section now reads as follows:

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"The county treasurer in counties of the third class adopting township organization shall be allowed a salary of not less than \$100.00 per month by the county court to be paid as at present provided by law; the county collector for collecting and paying over the same shall be allowed a commission of three per cent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two per cent on all delinquent taxes, which shall be taxed as costs against such delinquents and collected as other taxes: provided, he shall receive nothing for paying over money to his successor in office."

This enactment was pursuant to Report No. 11 of the Committee on Legislative Research as follows: (Appendix to Report No. 11, Part I, page 109)

"Section 13993 provides for the compensation of the treasurer in township organization counties where he is ex officio collector, on the basis of a minimum salary and commissions on tax collections. Section 1, Laws 1945, p. 1540 (54.26) in fixing the salary of the treasurer in third class counties, expressly excepted treasurers in township organization counties but section 1, Laws 1945, p. 1541 applying to salaries of treasurers in fourth class counties contains no such exception. On the contrary, it expressly provides that the salary there fixed shall be the total compensation of the treasurer. It follows then that the compensation of treasurers as ex officio collectors as fixed by section 13993 can only apply to the treasurer of third class counties. It is accordingly suggested that section 13993 be reenacted and made applicable only to third class counties."

Thus, by this enactment the Legislature has clarified the intent of the 1945 Act, above referred to, fixing the salaries of county treasurers in fourth class counties. Any doubt which might have existed has been resolved by the enactment expressly limiting the statute fixing the compensation of county treasurers in counties under township organization to counties of the third class.

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CONCLUSION

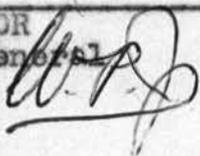
Therefore, it is the opinion of this department that the salary of the county treasurer in counties of the fourth class under township organization for services as county treasurer is fixed by the Laws of Missouri, 1945, page 1541.

Respectfully submitted,

ROBERT R. WELBORN  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General



RRW/feh