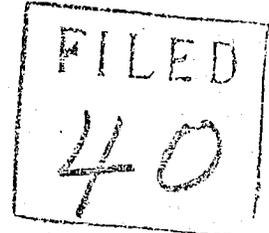


COUNTY TREASURER }

County Court in third class county, not under township organization, may pay stenographic help for County Treasurer.

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Honorable Wilson D. Hill
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Dear Sir:

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

"May the County Court permit a Treasurer of a 3rd class County to hire stenographic help, payable out of the budget prepared and accepted for such official?"

Ray County is a county of the third class not under township organization. Examination of the statutes pertaining to the compensation and duties of county treasurers in counties of the third class, not under township organization, (Article VIII, Chapter 100, R. S. Missouri, 1939, Laws of Missouri, 1945, page 1540) reveals no provision for payment of stenographic help for the county treasurer in such counties.

In such circumstances we are of the opinion that the case of Bradford v. Phelps County, 210 S.W. (2d) 996, may be relied upon in answering your question. That case involved the allowance by the county court of Phelps County of the sum of Fifty Dollars (\$50.00) per month to the Prosecuting Attorney for stenographic hire as part of the estimated expense of his office. In the course of the opinion in that case the court stated, 210 S.W. (2d), 1. c. 1000:

"Of course, the Legislature could have provided for salaries for stenographers of prosecuting attorneys in counties of the class including Phelps County, quite as have been provided by statute in counties of other classification. For example,

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see Laws of Missouri, 1945, pp. 574, 578, and 583, Mo. R.S.A. Sections 12906 et seq., 12957 et seq., 13547.353 et seq. The Legislature has not done so. This does not mean the County Court of Phelps County should not, in the exercise of its discretion, make allowance for the expense of necessitous stenographic service to the prosecuting attorney. But, in the absence of legislation providing a salary or allowance for a stenographer or for stenographic service for the prosecuting attorney of Phelps County, the County Budget Law means the County Court of Phelps County has the power to make whatever allowance for stenographic service as it, in its discretion, may deem necessary with a regard to the efficiency of the prosecuting attorney's office, and to the receipts estimated to be available for that and other estimated expenditures, in short, to approve such an estimate as will promote efficient and economic county government. To put it in another and summary way--since Prosecuting Attorney could not rely on a statute particularly providing pay for his stenographic service, he should have necessarily expected such an allowance as the County Court of Phelps County in the honest, nonarbitrary performance of its duty under the County Budget Law would make, County Budget Law, supra, particularly Sections 10912 and 10917."

There being no provision for the payment of stenographic hire for the county treasurer in a county such as yours, we feel that the county court may allow in the county budget and pay from county funds such sum for such services as the county court in the exercise of its discretion may deem proper.

The case of Alexander v. Stoddard County, 210 S.W. (2d) 107, which involved the question of the right of the county treasurer and ex officio collector in counties of the third class, under township organization, to recover compensation paid by him to a

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deputy is not deemed in point in the present situation. In that case the court held that the county treasurer was not entitled to recover from the county the amount of such compensation paid by him for the reason that the statute expressly provided that the deputy should be paid from the fees earned by the county treasurer. No such provision is found in this situation. We also wish to point out that this opinion deals only with stenographic hire and does not apply to deputies. Furthermore, any question of the necessity of the treasurer's employing stenographic hire is a matter to be determined by the county court.

CONCLUSION

Therefore, it is the opinion of this department that the county court of a county of the third class, not under township organization, may allow in the county budget and pay from county funds such amount for stenographic hire of the county treasurer as the county court in its discretion may deem proper.

Respectfully submitted,

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APPROVED:

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