

SOCIAL SECURITY:
ST. LOUIS BOARD OF
ELECTION COMMISSIONERS:

Members of the Board of Election Commissioners and its employees for the purpose of Senate Bill No. 3, would be covered by an agreement entered into between the City of St. Louis and the state agency extending the benefits of the federal old-age and survivors insurance to its employees.

June 25, 1951

6-25-51

Mr. Paul C. Calcaterra, Chairman
Board of Election Commissioners
for the City of St. Louis
208 South 12th Boulevard 2
St. Louis, Missouri



Dear Sir:

You recently requested an opinion of this department which request reads as follows:

"Please let us know how the employees of this Board can be covered by the State Social Security Act recently passed by the 66th General Assembly.

"The City of St. Louis is preparing a bill to present to the Board of Aldermen which will make such Social Security law applicable to City employees.

"Although the members of the Board are appointed by the Governor, we, and our employees, are paid by the City of St. Louis. We have asked the City Counselor's office our status in the matter and it was suggested that we secure an opinion from you as to how we may become eligible for Social Security benefits."

Your question requires an interpretation of Senate Committee Substitute for Senate Bill No. 3 of the 66th General Assembly, with regard to the status of the Board of Election Commissioners. The

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necessity of such determination is obvious in view of the fact that the bill provides that employees of the State, including elective and appointive officers and members of the General Assembly shall be covered under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act, and employees of political subdivisions or instrumentalities of the state or subdivision may be covered. This coverage is affected by the agreement entered into between the state agency and the Federal Security Administrator.

Section 4, Subsection 1 of this bill provides in part as follows:

"Every employee of the state whose services are covered by an agreement entered into under section 2 shall be required to pay for the period of such coverage into the contribution fund established by section 6 of this act, contributions with respect to wages equal to the amount of tax which would be imposed by section 1400 of the Federal Insurance Contributions Act, * * *."

Subsection 2 of this section provides in part:

"The contributions imposed by this section shall be collected by the state by deducting the amount of the contributions from wages paid, * * *."

In view of the above cited section we do not believe that the term employee as used therein and defined in Subsection 2 of Section 1, to mean "elective or appointive officers and employees of the state, including members of the General Assembly," was ever intended to embrace those individuals who might otherwise fall within this definition but who are not paid by the State. In other words, unless an individual is receiving his remuneration from the State, he is not covered by the agreement entered into with the Federal Security Administrator, as an employee of the State, for the State would have no way of collecting the contributions imposed by this act. Any other conclusion would of necessity render Subsection 2 of Section 4 inoperative and superfluous. Such a construction cannot be sanctioned in view of the well recognized rule stated in the case of Logan v. State Highway Commission, 330 Mo. 1213, 1. c. 1219:

"The two sections of the statute should be read and construed together. In construing

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a statute the court, must, if possible, give effect to the whole and every part thereof, provided the interpretation reached is reasonable and not in conflict with the legislative intent. * * *"

Section 118.130, RSMo 1949, provides that the salaries of the election commissioners and employees of the board be paid by the city. Therefore, we are of the opinion that the members of the board and employees are not covered under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act as employees of the State.

The legislature has clearly distinguished between employees of the State and employees of a political subdivision. Section 5, Subsection 1, provides in part:

"Each political subdivision of the state and each instrumentality of the state or of a political subdivision may submit for approval by the state agency a plan for extending the benefits of Title 2 of the Social Security Act to its employees, and are hereby authorized to, by proper ordinance or resolution, enter into and ratify any such agreement upon its approval as aforesaid. * * *"

(Underscoring ours.)

Again considering the term employees as used in this section as including elective and appointive officers and employees of the political subdivision, we could not question but that the county clerk of a county being a political subdivision was intended as an officer or employee of such subdivision. The Board of Election Commissioners are charged with the same duties within the City of St. Louis in regard to elections as a county clerk of a county. The duties of the board are confined solely to the geographical boundaries of the city and their remuneration is received from the city. Therefore, we are of the opinion that for the purpose of Senate Bill No. 3, they may be considered as officers or employees of the city. We do not deem it necessary to distinguish the election commissioners as either officers or employees since in either event they would be covered by an agreement entered into between the governing body of the city and the state agency extending the benefits of the federal old-age and survivors insurance system to its elective or appointive officers and employees.

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CONCLUSION

Therefore, it is the opinion of this department that the Board of Election Commissioners and its employees for the purpose of Senate Bill No. 3, would be covered by an agreement entered into between the City of St. Louis and the state agency extending the benefits of the federal old-age and survivors insurance to its employees.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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