

ASSESSOR'S FEES:
THIRD AND FOURTH
CLASS COUNTIES:

Neither the Constitution of 1945, nor RSMo 1949, prescribe a maximum amount of fees that may be received and retained by assessors in third and fourth class counties. Said assessors are legally entitled to receive and retain every fee accruing to their offices annually as compensation for their services.

January 18, 1952

1-21-52



Honorable W. H. Holmes, Auditor
State of Missouri
State Capitol Building
Jefferson City, Missouri

Dear Sir:

This is to acknowledge receipt of your recent request for a legal opinion of this department, which request reads as follows:

"Please furnish this department with an official opinion on the following question:

"What is the maximum amount of fees that an Assessor may retain, exclusive of salaries paid to deputies, in third and fourth class counties; since the provisions of Section 13, Article IX, of the 1875 Constitution of Missouri, have been omitted from the 1945 Constitution of Missouri?"

The statement is made in your letter that Section 13, Article IX of the Constitution of 1875, has been omitted from the Constitution of 1945 and you make the inquiry as to what the maximum amount of fees, exclusive of salaries paid to deputies, assessors of third and fourth class counties may retain.

Section 13, Article IX, of the Constitution of 1875, referred to above, did provide a limit of the amount of fees, exclusive of salaries paid to necessary deputies, which might be paid to any county or municipal officer in any one year. Said section read as follows:

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"The fees of no executive or ministerial officer of any county or municipality, exclusive of the salaries actually paid to his necessary deputies, shall exceed the sum of ten thousand dollars for any one year. Every such officer shall make return quarterly, to the county court of all fees by him received, and of the salaries by him actually paid to his deputies or assistants, stating the same in detail, and verifying the same by his affidavit; and for any statement or omission in such return, contrary to truth, such officer shall be liable to the penalties of willful and corrupt perjury."

This "limitation" section has been omitted from the 1945 Constitution, and the only reference made in same to the compensation of all county officers, except those of counties operating under their own charters, is that found in Section 11, Article VI, which reads as follows:

"Except in counties which frame, adopt and amend a charter for their own government, the compensation of all county officers shall be prescribed by law uniform in operation in each class of counties. Every such officer shall file a sworn statement in detail, of fees collected and salaries paid to his necessary deputies or assistants, as provided by law."

The compensation of the county officers referred to is not fixed, but it is noted that such compensation is to be provided by the statutes, and that such statutes shall be uniform in operation in each class of counties. Therefore, it appears that the function of the constitutional provision is to direct us to the appropriate statutes fixing the compensation of such county officers, and is applicable to that of assessors in third and fourth class counties.

The office of assessor in third and fourth class counties appears to be an exception to the rule that the framers of the Constitution, and the legislature, in the enactment of necessary laws in conformity to the Constitution, intended that county officials should receive salaries only as compensation for their services.

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No provision of the Constitution of 1945 or of the Missouri Revised Statutes of 1949 impose the duty upon the assessors of third and fourth class counties to collect every fee accruing to their offices and to pay over all such fees to the treasurers of their respective counties. In the absence of any such provisions, it is assumed that it was the intention of the lawmakers that such assessors should be compensated for their services only by fees collected by them each year, and also since no maximum amount of fees has been provided, it is our thought that assessors in third and fourth class counties are entitled to receive and retain for their services annually, every fee accruing to them in their official capacity.

CONCLUSION

It is the opinion of this department that neither the Missouri Constitution of 1945, or the Revised Statutes of 1949, prescribe the maximum amount of fees which assessors of third and fourth class counties are entitled to receive and retain, but that such assessors are entitled to receive and retain all fees accruing to their offices annually, as compensation for their services.

Respectfully submitted,

PAUL N. CHITWOOD
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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