

Answered by Letter  
Klaffenbach

November 14, 1969

OPINION LETTER NO. 508

Honorable Edna Eads  
Representative  
District No. 149  
112 South Pine Street  
Bonne Terre, Missouri 63628



Dear Mrs. Eads:

This letter is in response to your opinion request concerning Section 59.257 of House Bill No. 119 of the 75th General Assembly, which was effective October 13, 1969, asking whether the salaries of the deputies of the recorder of deeds of third class counties are to be paid from the general revenue of the county or from the recorder's fees.

Section 59.257, of course, concerns recorders of deeds in third class counties where there is a separate circuit clerk and recorder. The previous section with respect to the payment of deputies in such a county was Section 59.250, RSMo Supp. 1967. The repealed section stated in full as follows:

"1. The recorder of deeds in counties of the third class, wherein there is a separate circuit clerk and recorder, shall keep a full, true and faithful account of all fees of every kind received. He shall make a report thereof each year to the county court.

"2. All other fees over and above the sum of four thousand seven hundred fifty dollars for each year of his official term, seven hundred fifty dollars of which shall be compensation for the performance of duties imposed by section 137.117, RSMo, and four thousand dollars for other duties imposed by law, shall be paid into the county treasury after paying out of the fees and emoluments the amounts for deputies and assistants in his office that the county

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court deems necessary.

"3. In addition to the fees allowed to be retained by subsection 2 he shall receive as compensation for the performance of the duties imposed by section 59.225 one thousand dollars per year to be paid out of the county treasury." (Emphasis added)

Obviously under the repealed section, the payment of the deputies was made from the recorder's fees.

Section 59.257 of House Bill No. 119 states in full as follows:

"The recorder of deeds in counties of the third class wherein there is a separate circuit clerk and recorder, is entitled to appoint the deputies that the recorder of deeds, with the approval of the county court, deems necessary for the prompt and proper discharge of the duties of his office. The deputies shall possess the qualifications of clerks of courts of record and may, in the name of their principal, perform the duties of the recorder of deeds, but all recorders of deeds and their sureties are responsible for the official conduct of their deputies. The deputies appointed as herein provided shall receive the salaries that are fixed by the recorder of deeds, with the approval of the county court, from the general revenue of the county. The appointment of every deputy shall be in writing, endorsed with an oath of office, similar to that taken by the recorder of deeds and subscribed to by the deputy appointed, and filed by the recorder with the county court." (Emphasis added)

It is clear that the above section provides that the deputies shall receive the salaries that are fixed by the recorder of deeds with the approval of the county court from the general revenue of the county.

The complication, of course, is created by the interpretation of the provisions of House Bill 119 with respect to the effective date of the provisions of that bill relating to the compensation of the recorder of deeds of such county. That is to say, on October 9, 1969, we issued our Opinion No. 399 to William S. Brandon. In that opinion, we concluded in part that the recorder of deeds in counties of the third class will not receive the compensation provided by House Bill No. 119 during his present term if the compensation of such officer provided by such bill is greater than the present statutory salary of such officer. Acting upon

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the assumption, therefore, that the recorder of the county in question in this opinion is not entitled to receive the compensation during the present term as set out in House Bill No. 119 pursuant to our Opinion No. 399, the question follows as to whether or not the deputies of such recorder are to receive their compensation under old Section 59.250 or new Section 59.257 of House Bill No. 119.

It is our view that Section 59.257 of House Bill No. 119 applies and is effective October 13, 1969, regardless of whether or not the provisions relating to the compensation of the recorder of such county are effective on that date or at the termination of said recorder's term of office.

Therefore, the salaries of said deputies as fixed by the recorder of deeds and approved by the county court are to be paid from the general revenue of the county.

Yours very truly,

JOHN C. DANFORTH  
Attorney General