

September 20, 1973

OPINION LETTER NO. 270  
Answer by Letter - Klaffenbach

Honorable James A. Noland, Jr.  
Missouri Senate, District 33  
Rural Route 1  
Osage Beach, Missouri 65065



Dear Senator Noland:

This letter is in response to your opinion request asking when the limitation on compensation for ex officio collectors under House Bill No. 265, 77th General Assembly, becomes effective and what effect it has on the compensation of ex officio collectors.

The bill to which you refer amended Section 52.270, RSMo 1969, which imposed limitations on the compensation of such ex officio collectors by deleting the reference to ex officio collectors in such section thus making Section 52.270 not applicable to ex officio collectors. The bill also amended Section 54.320, RSMo 1969, by adding to that section new provisions respecting the limitation on the compensation of ex officio collectors. Section 54.320 as amended, reads as follows, the underscored matter being added by House Bill No. 265:

"The county treasurer in counties of the third and fourth classes adopting township organization shall be allowed a salary of not less than one hundred dollars 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 three percent on all corporation taxes, back taxes, licenses, merchants' tax and tax on railroads, and two percent on all delinquent taxes, which shall

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be taxed as costs against such delinquents and collected as other taxes; he shall receive nothing for paying over money to his successor in office. Other provisions of law to the contrary notwithstanding, the total compensation of ex officio collectors shall not exceed the sum of ten thousand dollars annually, which maximum amounts shall include the costs of any deputy or assistants employed; except that, in all counties wherein the total amount levied for any one year exceeds two million dollars and is less than four million dollars, the ex officio collector shall present for allowance proper vouchers for all disbursements made by him on account of salaries and expenses of his office and other costs of collecting revenue, which shall be allowed as against the commissions collected by him; and out of the residue of commissions in his hands, after deducting the amounts so allowed, the ex officio collector may retain a compensation for his services not to exceed ten thousand dollars per year; and except that, the maximum compensation herein provided shall not be applicable to ex officio collectors in counties wherein the total amount levied for any one year exceeds four million dollars. The limitation on the amount to be retained as herein provided applies to fees and commissions on current taxes, but does not apply to commissions on the collection of back and delinquent taxes and ditch and levee taxes. All fees or commissions received by the ex officio collector in excess of the maximum amounts provided herein to be retained as compensation shall be paid into the county treasury."

Under Section 1.130, RSMo, the bill becomes effective September 28, 1973.

We do not have any factual situation before us and we are not inclined to speculate as to what the result would be with respect to all ex officio collectors.

Insofar as the new limits imposed by Section 54.320 constitute an increase in compensation during such officers' terms, such

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an increase is prohibited by Section 13, Article VII of the Missouri Constitution. State ex rel. Emmons v. Farmer, 196 S.W. 1106 (Mo. banc 1917).

We regret, however, that a further definitive ruling is not practical in the absence of clear specific facts upon which to base such a ruling.

Very truly yours,

JOHN C. DANFORTH  
Attorney General