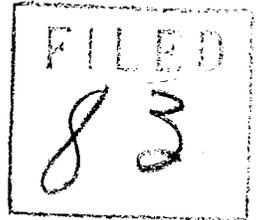


COUNTY JUDGES: County judges in Jasper County, to receive salary of \$1,250.00 for period of July 1, 1946 through December 31, 1946; not entitled to receive compensation during said period as members of county board of equalization.

October 22, 1947



Honorable Forrest Smith
State Auditor
Jefferson City, Missouri

Dear Mr. Smith:

We are in receipt of your letter of October 18, 1947, requesting an opinion from this department, which reads as follows:

"We would like to have your opinion as to the amount of salary the county court members of Jasper County are entitled to receive from July 1, 1946 to December 31, 1946, that being a county of the second class.

"Also, as to whether the members of the county court would be entitled to per diem as members of the Board of Equalization and Appeals during said period."

In answer to your first question we direct your attention to Section 2494.1, Mo. R.S.A., which provides for the compensation of judges of the county court in counties of the second class, and reads as follows:

"In all counties of the second class, the judges of the county court shall receive for their services, an annual salary of \$3600.00, to be paid monthly in twelve equal installments out of the county treasury. Such salary shall be in lieu of all fees and other compensation heretofore allowed such judges for services rendered, including the per diem allowed them as members of the board of equalization and board of appeals."

Said section was made effective as of July 1, 1946, and allows said judges a salary of \$300.00 per month for their services as such. Prior to that date the judges of the County Court of Jasper County, said county having a population of 78,705 according to the 1940 National Census, received an annual salary of \$2,500.00, under the provisions of Section 2494, R.S. Mo. 1939, before its repeal by Sections 2494.1 and 2494.2, Mo. R.S.A. Said section read, in part:

"In all counties of this state now or hereafter having seventy-five thousand inhabitants and less than ninety thousand inhabitants, the judges of the county court shall receive an annual salary of twenty-five hundred dollars. Said salary to be in lieu of the per diem heretofore allowed by law to said judges as judges of the county court, and in lieu of the salary heretofore allowed by law to said judges as members of the board or road overseers, under the provisions of section 8528.
* * *

Thus, the judges of the County Court of Jasper County, a county of the second class, are entitled to receive a substantial increase in salary under Section 2494.1. However, reference is made to Section 13 of Article 7 of the Constitution of 1945, which provides as follows:

"The compensation of state, county and municipal officers shall not be increased during the term of office; nor shall the term of any officer be extended."

In view of the above constitutional provision, judges of the County Court of Jasper County must be compensated until the termination of the current terms of office, according to the old salary scale as was set out in Section 2494, and therefore are entitled to receive \$1,250.00 for their services as such for the six month's period beginning July 1, 1946, and ending December 31, 1946.

With regard to the further question presented, we will again call your attention to the fact that said judges receive

an annual salary for their services as judges of the county court.

Section 11008, Mo. R.S.A., has a bearing on this matter, and provides as follows:

"The judges of the county court, the county surveyor, the county assessor, the sheriff, the county clerk, and those sitting as members as may otherwise be provided, shall receive five dollars per day for each day they shall be present and act in the performance of their duties as members of the county board of equalization. Provided, that the above county officers who are now or may hereafter be compensated by salary shall not be entitled to the compensation provided in this section." (Underscoring ours.)

The above provision is plain and unambiguous in prohibiting county judges who are compensated by salary from receiving compensation for their services as members of the county board of equalization, and must be given effect as written. Since the county judges of Jasper County are compensated by a salary under Section 2494 and will also, at the expiration of the current terms of office, be compensated by a similar salary under Section 2494.1, they are not entitled to receive additional compensation for their services as members of the county board of equalization. It necessarily follows then that they are not entitled to receive said compensation during the specified period.

Conclusion.

In view of the foregoing, it is the opinion of this department that judges of the County Court of Jasper County, a county of the second class, are entitled to receive compensation in the amount of \$1,250.00 for their services as such during the six month's period beginning July 1, 1946, and ending December 31, 1946. It is our further opinion that said judges are not entitled to receive additional compensation for their services as members of the county board of equalization during said period.

Respectfully submitted,

APPROVED:

DAVID DONNELLY
Assistant Attorney General

J. E. TAYLOR
Attorney General

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