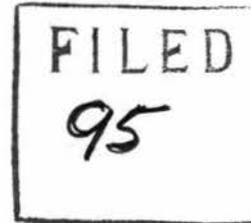


PROSECUTING ATTORNEYS:  
BUDGET LAW:

Increase in salaries of prosecuting attorneys effective July 7, 1949, is automatically included in the budget for the year 1949.

July 18, 1949



Honorable Joe C. Welborn  
Prosecuting Attorney  
Stoddard County  
Bloomfield, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department and reading as follows:

"I understand that the Governor has signed a bill placing additional duties on Prosecuting Attorneys, and providing that they shall receive additional compensation for those duties. I would appreciate an opinion from you as to when this bill becomes effective, and also as to the effect of the County Budget in not providing for additional compensation, on entitling the Prosecuting Attorney to the additional compensation for the remainder of the year 1949."

The official record of the Secretary of State's Office discloses that House Bill No. 297 of the 65th General Assembly, providing compensation for prosecuting attorneys in counties of the third and fourth class for certain added duties, was signed by the Governor, July 7, 1949. Such bill contains an emergency clause and by virtue of Section 29, Article III of the Constitution of Missouri, 1945, became effective on such date. In the case of Gill vs. Buchanan County 142 S.W. (2d) 665, the Supreme Court had before it for decision the question of whether or not the fact that the county court of Buchanan County had failed to provide in the budget for the full salaries of the county judges would preclude the recovery of such salaries by the judges. The court said, l.c. 668:

"\* \* \* They must be considered to be in the budget every year because the Legislature has put them in and only the Legislature can take them out or take out any part of these amounts. \* \* \*"

While it is true that in the Gill case, the law governing the amount of compensation to be paid to county judges was in effect at the time the county budget was made up by the county court, and in the present case House Bill No. 297 did not become effective until several months after the 1949 county budgets were made out, we believe the quoted portion of the Gill case to be applicable to the compensation provided for in House Bill No. 297. We therefore believe that by virtue of such bill, the compensation provided for therein is automatically included in the 1949 county budgets in counties of the third and fourth class.

CONCLUSION

It is the opinion of this department that House Bill No. 297 of the 65th General Assembly became effective July 7, 1949. It is further the opinion of this department that the compensation provided for in House Bill No. 297 for prosecuting attorneys is automatically included within the budget of counties of the third and fourth class.

Respectfully submitted,

C. B. BURNS, JR.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General