

SOCIAL SECURITY:
COUNTY FARM BUREAU:

The employees of the County Farm Bureau are not county employees under the provisions of Senate Bill No. 3, the County Farm Bureau being an instrumentality.

October 25, 1951

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FILED

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Honorable John E. Downs
Prosecuting Attorney of
Buchanan County
St. Joseph, Missouri

Dear Sir:

Reference is made to your request for an opinion of this department which request reads as follows:

"Mr. Elmer L. Pigg's letter of August 2, 1951, which was addressed to all County Clerks, has been referred to this office for an opinion.

"Mr. Pigg's letter states that it is his opinion that employees of the Farm Bureau should be considered as County Employees, thus coming under the Old Age and Survivors Insurance provisions.

"Our County issued its' warrants to the Farm Bureau itself, and has no part in the payment of salaries to any employees of the Farm Bureau. I assume that this is the practice throughout the state. Has your office rendered an opinion with reference to this problem, and if not, would you please render one to us at your earliest convenience with reference to whether or not the employees of the Farm Bureau are to be considered County Employees, thus coming under the Old Age and Survivors Insurance Law.

Your question requires an interpretation of Senate Committee Substitute for Senate Bill No. 3 of the 66th General Assembly with regard to the status of the County Farm Bureau. The necessity for

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such determination is obvious in view of the fact that the bill provides that employees of the state shall be covered under the old-age and survivors insurance provisions of Title 2 of the Federal Social Security Act and employees of political subdivisions or instrumentalities of the state or subdivision may be covered. This optional coverage afforded to political subdivisions and instrumentalities is affected by an agreement entered into between the state agency and the political subdivision or instrumentality.

You have stated that you are in disagreement with Mr. Pigg's letter of August 2, 1951, which stated "that it was his opinion that employees of the Farm Bureau should be considered as county employees, thus coming under the old-age and survivors insurance provisions when the county accepted the benefits.

The law providing for county farm bureaus is found in Chapter 262, Sections 262.550 to 262.620. Section 262.560, RSMo 1949, defines a county farm bureau as "a body corporate formed for the purpose of cooperating with the University of Missouri College of Agriculture in carrying out the provisions of the Smith-Lever Act of Congress approved May 8, 1914, composed of not less than two hundred and fifty members, with an annual membership fee of not less than fifty cents per member fully paid up, its constitution and bylaws formally adopted and its officers elected and installed." It is provided in the act itself, that the purpose of such organization shall be that of "promoting the public welfare and to aid in diffusing among the people of the State of Missouri useful and practical information on subjects relating to agriculture, home economics and rural life and to encourage application of the same," and must have for its objects:

- "(1) To promote the development of profitable and permanent systems of agriculture;
- "(2) To assist in securing wholesome and satisfactory living conditions in the county;
- "(3) To encourage the development and successful growth of all rural social and educational institutions;
- "(4) To assist in safeguarding rural public health through community cooperation;
- "(5) To develop better economic and business methods and practices in farm and home life;

- "(6) To cooperate with all individuals, groups, institutions, and organizations whose purposes are in accord with the objects set forth in this section."

The act further provides that whenever a county farm bureau has been organized with the required number of members, with its membership dues fully paid up, its constitution and bylaws adopted, and its officers elected and installed, the county court is empowered and authorized and shall appropriate out of the general funds of the county sums to be administered by the county farm bureau, within the amounts "specified" in Section 262.580, RSMo 1949.

Section 262.590, RSMo 1949, provides that all funds appropriated by the county court shall be used to pay the salary and necessary expenses of men and women trained in agriculture and home economics respectively, and also for necessary clerical assistance and office equipment. Said section provides as follows:

"For the purpose of carrying out the provisions of sections 262.550 to 262.620, all funds appropriated by any county court to a county farm organization shall be used to pay the salaries and necessary expenses of men and women, either or both, trained in agriculture and home economics respectively, to serve as county agriculture agents, county home demonstration agents, and county boys' and girls' club agents, and to provide such clerical assistance and office equipment as may be necessary to the effective conduct through these agents, of such educational activities as are specifically authorized by state and federal legislation providing for cooperative extension work in agriculture and home economics as defined by the Smith-Lever Act of congress. The office or headquarters of any county agriculture agent, county home demonstration agent or county boys' and girls' club agent as provided for in sections 262.550 to 262.620 shall be maintained at the county seat of each county."

The county agriculture agent, county home demonstration agent, county boys' and girls' club agent, and their clerical assistants are neither appointed, elected or employed by the county nor does the county have any control over such agents, employees or officers of the county farm bureau other than that an annual budget report shall be submitted to the county court.

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Section 262.600, RSMo 1949, provides that at the close of each month the secretary shall requisition the county court for the total amount of the months' expenses. The county court has no authority or discretion to approve or disapprove such requisition other than they shall not exceed one-twelfth of the total amount appropriated for the year with the added exception that if a reserve shall be accumulated, it shall be available for current expenses.

From the foregoing it is quite obvious that the agents and their clerical assistants are not officers or employees of the state nor do we believe that they are officers or employees of the county. On the contrary, we are of the opinion that the farm bureau is an instrumentality as defined in the act.

Section 1, subsection 6, of Senate Bill No. 3, defines the term instrumentality as follows:

"'Instrumentality', an instrumentality of a state or of one or more of its political subdivisions but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or such political subdivision and whose employees are not by virtue of their relation to such juristic entity employees of the state or such subdivision."

The provisions for creating a farm bureau have been universally accepted as a valid exercise of the legislative power of the state. Jasper County Farm Bureau v. Jasper County, 315 Mo. 560; Cloud County Farm Bureau v. County Commissioners, 126 Ka. 322; State ex rel. Hall County Farm Bureau et al. v. Miller et al., 104 Neb. 838. Once created, they are the body through which vital agricultural information is communicated to farmers of the respective counties. They are in a sense an instrumentality through which this information is disseminated.

The term instrumentality is defined in the act to be a juristic entity. Funk and Wagnalls New Standard Dictionary lists the word "juristic" as an adjective and defines it as follows: "of or pertaining to a jurist, or the profession of law." The term "juristic act" is defined as "a proceeding intended to have a legal effect and having the necessary qualifications." Ordinarily the only entity which must possess prescribed or necessary qualifications to receive legal sanction and recognition is a corporation. The legislature might well have used the term legal entity descriptive of a corporation rather than juristic. However,

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we believe that it was calculated to have the same effect. The term juristic entity is not unfamiliar to the courts of this state. The following is found in the case of State ex inf. McKittrick v. Missouri Utilities Co., 339 Mo. 385, l. c. 399, "a corporation is, in law a person. It is a juristic entity separate and apart from the persons who happen to be its shareholders and its creditors, secured and unsecured." This instrumentality defined to be "juristic" or legal entity may be considered as such only if it is "legally separate and distinct from the state or such political subdivision." We can think of no instrumentality which is separate and distinct, used in the broadest sense, from its superior. However, this phrase is qualified by the term "legally" i.e., "legally separately and distinct." Such terminology is familiar to the law of corporations. Evidence of such is found in the rule stated in 18 C. J. S., Corporations, Section 4, Chapter 368, " * * * a corporation is regarded as a legal entity, separate, distinct, and apart from the members who compose it." Likewise, see I Thompson on Corporations, page 14, "The legal fiction is that a corporation is an entity distinct and separate from its officers, directors and stockholders, * * *." Neither in its broadest sense is a corporation separate and distinct from its officers, directors and stockholders but only has such separability as is provided by law, i. e., the right to sue and to be sued in its own name, to purchase property, etc.

A county farm bureau is not in all respects completely separate and distinct from the state from whom it derives its authority nor from the county from whom it receives compensation. However, we do not believe that this will prevent it from being an entity legally separate and distinct from the state or county. The following verification of this conclusion is found in the case of Virginia Mason Hospital Ass'n. v. Larson, et al., 114 P. (2d) 976, the Supreme Court of Washington defined the term separate entity as follows:

"We do not believe that lack of independence from other organizations is the test of whether an institution is a separate entity. Every institution is in a measure dependent upon the functioning of other institutions which provide goods and services necessary for the efficient operation of the former. But each may be, nevertheless, a completely separate entity. If the control of each of these institutions were in separate hands, it would be clearly evident that the mere interdependence for goods and services would not merge identity of these organizations."

We are of the opinion that a county farm bureau as a body corporate is a juristic entity legally separate and distinct

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from the state and county and whose employees are not employees of the state or county. The county agents and their employees are not appointed by the state or county and are in no way under their control neither are they paid by the state or county but an appropriation is made to the farm bureau and administered by the farm bureau.

CONCLUSION

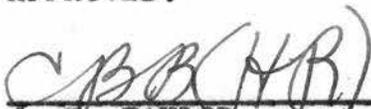
Therefore, it is the opinion of this department that the employees of the county farm bureau are not county employees under the provisions of Senate Bill No. 3.

We are further of the opinion that the county farm bureau is an instrumentality as defined in the act, and that its employees may be covered under the old-age and survivors insurance provisions of Title 2 of the Federal Social Security Act only by an agreement entered into directly with the state agency.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:


J. E. TAYLOR
Attorney General

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