

ASSESSORS:

COOPERATIVE AGREEMENTS:

1. The county assessor of Marion County, Missouri, may enter into a cooperative agreement with the City of Hannibal under such terms and conditions as may be approved by the county court, as provided under the provisions of Sections 70.210 to 70.230, RSMo to perform the duties of the City Assessor of Hannibal. 2. The County Assessor of Marion County has no authority to perform the duties of the City Assessor of Hannibal except as provided under Sections 70.210 to 70.230, RSMo. 3. Under such agreement the county assessor may use the facilities of his office and services of his deputies and clerks in performing the duties of the city assessor. 4. All compensation paid by the City of Hannibal for the use of such facility, and the services of the assessor, his deputies and clerks shall be paid to Marion County and deposited in the county treasury.

OPINION NO. 530

December 10, 1970

Honorable Ronald R. McKenzie  
Prosecuting Attorney  
Marion County Court House  
B & L Building, 3rd &  
Broadway  
Hannibal, Missouri 63401



Dear Mr. McKenzie:

This is in response to your request for an opinion from this office as follows:

"Briefly, it has been the custom and practice of the City of Hannibal, located within Marion County, Mo., to pay our Assessor [sic] the sum of \$4,000.00 a year from City Funds for assessing property within the City Limits of Hannibal, and for the City of Hannibal. The Assessor is contending that in spite of Senate Bill #1 which became effective on September 1, 1970, that he should still get \$4,000.00 from the City of Hannibal and there is some question

Honorable Ronald R. McKenzie

inssofar as the County Clerk is concerned as to whether or not this \$4,000.00 payment should not be made direct to the County Treasurer.

"You will recall that effective September 1, 1970, pursuant to Senate Bill #1, the Assessor would be pay [sic] on a monthly basis out of the General Revenue. The amount to be paid is based on the valuation of the County the preceding year. The bill further provides that the County must pay for all help requested by the Assessor and approved by the County Court. Our questions are as follows:

"1. Under Senate Bill #1, is the Assessor entitled to receive remuneration from another political subdivision, (the City of Hannibal, Missouri), if the County pays all the salaries of the Assessor and Deputy Assessors.

"2. If the County Assessor is also appointed the City of Hannibal Assessor, is the remuneration paid by said City of Hannibal to be given to and retained by the County Assessor or should that money be paid into the County Treasury of the County and of course belong to the County."

The City of Hannibal, Marion County, Missouri is a constitutional charter city formed under the provisions of the Constitution of Missouri. Marion County is a third class county with an assessed valuation of \$54,565,501.00 according to the 1967-70 Official Manual of the State of Missouri.

The question you submit concerns a public officer contracting with a public entity for the performance of a public service. The principles of law are entirely different from those that would be involved when contracting with an individual regarding private employment or service.

Counties, cities and public officials derive their authority from the state and have only such authority as expressly given them by law and that which is necessarily implied in order to execute that which is expressly given. Lancaster v. Atchinson County, 180 S.W.2d 706, 352 Mo. 1039.

Honorable Ronald R. McKenzie

Section 8.03 of the Charter of the City of Hannibal provides:

"The Division of Assessment shall consist of the City Assessor. The Assessor shall be appointed by the Mayor with the advice and consent of the Council, shall receive such compensation as may be provided by ordinance and shall hold office for a term of four years and until his successor is appointed and qualified. The Mayor may appoint as City Assessor the duly elected and acting Assessor of Marion County. The Assessor shall perform the duty of assessing and valuing, as a basis for the imposition of ad valorem or direct property taxes, real and tangible personal property subject to such taxation in this city, including but not limited to the stocks of goods, raw materials, finished products, goods in process, tools, machinery, and equipment of merchants and manufacturers which may be subject to ad valorem merchants' or manufacturers' taxes. He may perform such other duties with reference to assessment of taxes of any kind which may be properly levied by the city as may from time to time be conferred upon him by ordinance. All assessments made by the Assessor shall be subject to review and revision by the Council sitting as a Court of Appeal in the manner provided by ordinance."

Under the above charter provisions of the City of Hannibal, the mayor of Hannibal has authority to appoint as the city assessor the county assessor of Marion County to perform the duties of city assessor. If he is appointed under this charter provision it has to be in his official capacity as county assessor.

Section 70.210, RSMo provides that the terms used in Section 70.210 to 70.320, RSMo have the following meaning:

"(1) 'Governing body', the board, body or persons in which the powers of a municipality or political subdivision are vested;

"(2) 'Political subdivision', counties,

Honorable Ronald R. McKenzie

townships, cities, towns, villages, school, county library, city library, city-county library, road, drainage, sewer, levee and fire districts, soil and water conservation districts, watershed subdistricts, and any board of control of an art museum."

Section 70.220, RSMo provides:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. If such contract or cooperative action shall be entered into between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, said contract or cooperative action must be approved by the governing body of the unit of government in which such elective or appointive official resides."

Under the above statutory provision, the county of Marion and the City of Hannibal may contract with each other or with an elective or appointive official thereof for a common service. It is our view that since the county and city are each required to assess property for tax purposes it is a common service under the statutes.

Section 70.290 provides in part that all officers acting under the authority of a municipality or political subdivision pursuant to such agreement or cooperative action under these statutes shall be deemed to be acting for a governmental purpose.

Honorable Ronald R. McKenzie

Section 70.310, RSMo provides that:

"All money received pursuant to any contract or cooperative action, under the provisions of sections 70.210 to 70.320, unless otherwise provided by law, shall be deposited in such fund or funds and disbursed in accordance with the provisions of such contract or cooperative action."

Section 53.010, RSMo provides that each county in this state, except those under township organization, shall elect a county assessor, who shall enter upon the discharge of his duties on the first day of September next after his election, and shall hold office for a term of four years.

Under Senate Bill #1, enacted by the Seventy-fifth General Assembly, Third Extraordinary Session, the county assessor, clerks and deputies shall receive an annual salary payable monthly for the performance of their duties, the salary of the assessor to be determined upon the assessed valuation in each county.

The duties of the county assessor are found in Chapter 137, RSMo. It is the statutory duty of the county assessor of Marion County to assess all property for taxation for the county and state. It is the duty of the assessor of the City of Hannibal to assess property for taxation for the city as provided for in the charter provisions. Since the county and city are each required to have the property assessed for taxation, it is a common service in the scope of the powers of the county and city which each may contract and cooperate with in its performance.

We are enclosing herewith Opinion No. 23 issued by this office on January 21, 1970 to Honorable P. Wayne Kuhlman, Assistant Prosecuting Attorney, Clay County, Missouri that Clay County could contract with municipalities of Clay County to extend the taxes for said municipalities. Such opinion holds that the county clerk has the discretion and authority to decide whether he will enter into a cooperative agreement with the municipality and if such a contract is entered into, it must be approved by the county court before it is effective and that any consideration made pursuant to such contract must be paid into the county treasury.

We believe the same principles of law discussed in the above opinion apply to the facts under consideration.

It is our view that the county assessor as such has only

Honorable Ronald R. McKenzie

such authority to contract with the municipality, for the performance of a public service such as this, as is provided by statute and that which is given by law to municipalities. The authority to contract in such matters is governed by the provisions of Section 70.210 to 70.320, RSMo. Any contract he enters into with any city for the performance of a public service such as assessing property has to be done in his official capacity as county assessor, and under such terms and conditions as may be approved by the county court including the use of the facilities of the county and the services of the deputies and clerks. However, all compensation received for this service shall be deposited in the county treasury.

CONCLUSION

It is the opinion of this office that:

1. The county assessor of Marion County, Missouri, may enter into a cooperative agreement with the City of Hannibal under such terms and conditions as may be approved by the county court, as provided under the provisions of Sections 70.210 to 70.230, RSMo to perform the duties of the City Assessor of Hannibal.

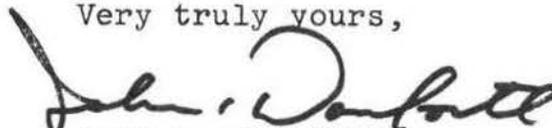
2. The County Assessor of Marion County has no authority to perform the duties of the City Assessor of Hannibal except as provided under Sections 70.210 to 70.230, RSMo.

3. Under such agreement the county assessor may use the facilities of his office and services of his deputies and clerks in performing the duties of the city assessor.

4. All compensation paid by the City of Hannibal for the use of such facility, and the services of the assessor, his deputies and clerks shall be paid to Marion County and deposited in the county treasury.

The foregoing opinion, which I hereby approved, was prepared by my Assistant, Moody Mansur.

Very truly yours,

  
JOHN C. DANFORTH  
Attorney General