

**BEFORE THE JUDICIAL FINANCE COMMISSION
STATE OF MISSOURI**

IN RE: Circuit Court Budget of the 13th Judicial
Circuit of the State of Missouri

CALLAWAY COUNTY COMMISSION,
Lee Fritz, Presiding Commissioner
Rodney Garnett, Commissioner
Robert Rankin, Commissioner,

Petitioners,

vs.

Case No. 98-0052

THIRTEENTH JUDICIAL CIRCUIT,
Frank Conley, Presiding Judge
Gene Hamilton, Circuit Judge
Joe Holt, Associate Circuit Judge
Cary Augustine, Associate Circuit Judge,

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

This matter comes before the Judicial Finance Commission upon a Petition filed on February 4, 1998, by Callaway County, Petitioner herein, against the Circuit Court for the 13th Judicial Circuit, Respondent. Petitioner seeks a determination that it is not obligated to pay an additional Five Hundred Dollars annually in salaries for each of the five deputy sheriffs, for a total of Two Thousand Five Hundred Dollars in total salary expense and associated benefits related to the increase in such salaries.

Based on the evidence presented by both parties, the Callaway County Sheriff sought and the Respondent recommended an increase for Budget Year 1997 in annual salary for each deputy sheriff in the amount of One Thousand Dollars. The Callaway County Commission determined that it had insufficient funds with which to fund this request in Budget Year 1997, but instead agreed to fund a Five Hundred Dollar-increase in annual salaries for each of the deputy sheriffs for Budget Year 1997, to be followed by a second Five Hundred Dollar-increase in such salaries for Budget Year 1998. Callaway County did not file a petition with the Judicial Finance

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Commission for Budget Year 1997. The county did not reach a similar agreement with any other class of employees for Budget Year 1997.

For Budget Year 1998, the Callaway County Commission decided to give all county employees, with few exceptions, an increase in annual salary in the amount of One Thousand Dollars. As part of this decision, the County reneged on its decision made during the Budget Year 1997 process to increase deputy sheriffs' salaries by Five Hundred Dollars annually for Budget Year 1998, but instead provided deputy sheriffs with the increase received by all county employees generally. The Callaway County Sheriff disagreed with this decision, and the Petition in this matter followed.

Pursuant to law and the rules of this Commission, this matter was set for Settlement Conference, which was conducted by Judge Byron Kinder and Commissioner Gerald Jones on March 6, 1998. The parties were unable to resolve their differences, and following written notice to the parties, this matter was heard by the Commission on June 1, 1998, in the Division II Courtroom of the Supreme Court Building in Jefferson City, Missouri. All members of the Commission were present at this hearing other than Commissioner Marshall Pile, who was absent with excuse and did not participate in the hearing, deliberation or decision of this case. The chair of the Commission did not request a temporary replacement for the absent commissioner and declared a quorum present for purposes of the hearing pursuant to Rule 105(h) of Supreme Court Administrative Rule 12 (Rules of Practice and Procedure Before the Missouri Judicial Finance Commission). The parties did not object at any time to the format or procedures of the hearing. Petitioner appeared *pro se* before the Commission by its commissioners, Presiding Commissioner Lee Fritz and Associate Commissioners Rodney Garnett and Bob Rankin. Respondent appeared by counsel, Mary Mueller, and by Sheriff Harry Lee.

In support of Petitioner's position, Callaway County Commissioner Bob Rankin testified that the One Thousand Dollar-increase provided all county employees for Budget Year 1998 superseded the earlier agreement reached by the county commission and the sheriff to provide the second Five Hundred Dollar-annual increase for Budget Year 1998. In response thereto, Callaway County Sheriff Harry Lee testified that the general salary increase provided all other county employees should not be considered in conjunction with the earlier agreement reached by the parties to increase sheriff deputies' compensation, and that the general salary increase was based on other factors extraneous to the decision to increase deputies' salaries. In addition,

Sheriff Lee testified that the rate of pay for deputies was significantly below compensation for law enforcement officers in other counties, as well as in municipalities in Callaway County. Sheriff Lee has had difficulties attracting and retaining qualified personnel in deputy positions as a result of inadequate compensation. Both parties presented evidence to the Commission regarding sheriffs' deputies' salaries in other counties. Although such salary comparisons contained contradictory information, the comparisons tended to show that deputy compensation in Callaway County was less than that in the other counties depicted.

Statements made by both Petitioner and Respondent indicate that Petitioner is solvent. Petitioner has adequate financial reserves, and the amount of funds in issue will not substantially affect the county budget to the county's benefit or detriment or the county's ability to finance other proposed expenditures. There are no other issues brought to the Commission's attention by either party relating to the proposed and budgeted expenditures by the circuit court. In determining individual compensation for deputies, the sheriff applies an established salary schedule. Although the parties referred to other county employee salaries, the parties did not compare the duties, qualifications and salaries of such employees in any manner to the duties, qualifications and salaries of the sheriffs' deputies.

The Commission concludes that it has jurisdiction to hear and decide this matter. The Petitioner, as the governing body of Callaway County, deemed the budget estimate of the Respondent to be unreasonable, and properly filed a petition for review with the Judicial Finance Commission pursuant to Section 50.640, RSMo Supp. 1997 and Commission rules.

Section 50.640.2, RSMo Supp. 1997, provides in relevant part that:

"If a petition for review is filed, the circuit court shall have the burden of convincing the judicial finance commission that the amount estimated by it and included in the budget is reasonable. In determining if the circuit court estimate is reasonable, the judicial finance commission shall consider the expenditures necessary to support the circuit court in relation to the expenditures necessary for the administration of all other county functions, the actual or estimated operating deficit or surplus from prior years, all interest and debt redemption charges, all capital projects expenditures, and the total estimated available revenues from all sources available for financing the proposed expenditures. In determining the reasonableness of any budget estimate involving compensation, the judicial finance commission shall also consider compensation for county employees with similar duties, length of services and educational qualifications."

In light of the absence of evidence comparing duties, qualifications and salaries of other county employees, the Commission takes notice of the statutory duties of the sheriff and the

sheriff's deputies to attend to the courts and to provide the law enforcement function of county government. See generally, Chapter 57, RSMo. The Commission concludes that the statutory duties of the sheriff and sheriffs' deputies are unique and have no ready comparison to other county employees

The Commission concludes that Petitioner has acquiesced to the reasonableness of the sheriff's deputies' salary schedule, as compared to salaries of other county employees, before the application of the salary increase in issue in this matter. Petitioner itself relied on this salary schedule in increasing the deputies' salary schedule in fixed dollar amounts during Budget Years 1997 and 1998.

The Commission further concludes that the Petitioner has acquiesced to the reasonableness of the percentage of expenditures made on behalf of the circuit court in relation to the expenditures necessary for the administration of all county functions. Petitioner did not present evidence specifically contesting the circuit court's percentage of the total county budget. Furthermore, the cost of providing the contested salary increase reflects an extremely small amount as compared to the total county budget and the portion of that budget devoted to the circuit court (Two-Tenths of One Percent of the total county general revenue budget). The only issue of reasonableness presented to the Commission relates to the Five Hundred Dollar-increase for Budget Year 1998.

By granting a general salary increase for all county employees for Budget Year 1998, the Petitioner circumvented the agreement reached by the parties for Budget Year 1997. The Callaway County Sheriff and Respondent may have elected not to contest the actions of Petitioner reducing the budget request in Budget Year 1997, because of this agreement. The evidence submitted indicated that the sheriff's deputies are paid less in Callaway County than law enforcement officers in other comparable counties and municipalities, although the evidence submitted by both parties differed in terms of degree. Therefore, the Commission decides that the Respondent's recommendation to increase the annual salary of the sheriff's deputies by Five Hundred Dollars during Budget Year 1998 is reasonable.

Dated this 24th day of July, 1998.

All concur.

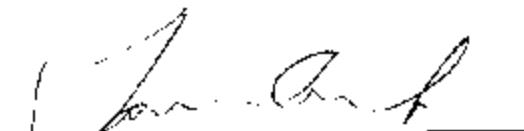
JUDICIAL FINANCE COMMISSION


Honorable Robert G. Dowd, Jr., Chair

Honorable David Coonrod
Honorable Gerald Jones
Honorable Byron Kinder
Honorable Edith Messina
Honorable Floyd McBride

Honorable Marshall Pile, not participating

Copies mailed by certified mail, return receipt requested, this 27th day of July, 1998, to: Lee Fritz, Presiding Commissioner, Callaway County, Callaway County Courthouse, Room 1, Fulton, MO 65251; and Mary Mueller, Counsel, 13th Judicial Circuit, Boone County Courthouse, 705 East Walnut Street, Columbia, MO 65201, Attorney for Respondent.


LAWRENCE A. WEBER
Commission Counsel