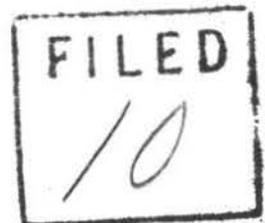


COUNTY CLERKS: The clerk of the county court in counties of the third class are authorized to select clerical help.

September 10, 1948



9-14

Honorable Fred C. Bellow
Prosecuting Attorney
Shelby County
Shelbina, Missouri

Dear Sir:

Reference is made to your request for an official opinion on the following matter:

"The situation is namely this: The County Court included in its budget a sum of money for extra clerical hire in the County Clerk's office for the purpose of making up the tax books. This is, of course, customary. The County Clerk takes the position that she is the one to pick such extra clerical hire. The Presiding Judge of the County takes the position that she needs the extra clerical hire but cannot have such unless he picks the same.* * "

We note that in accord with the scheme of classification of counties adopted by the General Assembly of Missouri, Shelby County has been assigned to the third class. In the premises, Section 13441.16, Mo. R.S.A., is germane to the subject matter of your inquiry. This section reads in part as follows:

"The clerk of the county court in each county of the third class shall be entitled to employ deputies and assistants, and for such deputies and assistants shall be allowed the following sums: * * * * *
The county court in all counties of the third class may allow the county clerk, in addition to the amount herein specified for deputies' or assistants' hire, a further sum not to exceed \$500 per annum, to be used solely for clerical hire or allowed and paid, in whole or in part, as additional compensation to any regular deputy or assistant to be determined by

the county court of such county; provided that the county court shall determine that the work required to be done by such clerk or clerks demands or requires such extra remuneration."

You will note that under the quoted statute, the additional amount of not to exceed five hundred dollars, provided by the county court, is in the form of reimbursement to the county clerk. The reimbursement is to cover the added expense incident to such clerk being required to provide either extra clerical help in the office or to pay additional compensation to a regular deputy or assistant. Such reimbursement is conditioned upon an actual expenditure by the county clerk of such money and upon a determination being made by the county court that the work of the office demands or requires such extra help or added remuneration. Nowhere in the statute does there appear any specific authorization to the county court to select such extra clerical help or to determine which regular deputy or assistant is entitled to extra remuneration. On the contrary, since the amount represents a reimbursement to the county clerk, it seems only logical that such officer is the one having the power to determine who should be employed as an extra clerk or to which deputy or assistant the extra remuneration should be paid. This is further born out by the quoted sentence in the statute authorizing the county clerk to employ deputies and assistants.

CONCLUSION

In the premises, we are of the opinion that the clerk of the county court in counties of the third class has the right to designate such extra clerical help as may be necessary, or to designate such regular deputy or assistant as is entitled to the extra remuneration under the provisions of Section 13441.16, Mo. R.S.A., all conditioned, however, upon funds for the reimbursement of such county clerk, having been provided by the county court, and further conditioned upon the determination by the county court that the work required to be done by such clerk demands or requires the employment of such additional clerical help or the payment of extra remuneration to a regular deputy or assistant.

APPROVED:

Respectfully submitted,

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