

COUNTY CLERK: The County Court of Callaway County may  
ELECTIONS: properly reimburse the County Clerk for  
REGISTRATION: expenses actually and necessarily incurred  
by him in performing official duties re-  
quired to be performed under the County Registration Law (Chapter  
114, RSMo.).

August 28, 1969

OPINION NO. 258

Honorable Melvin D. Benitz  
Prosecuting Attorney  
Callaway County Courthouse  
Fulton, Missouri 65251



Dear Mr. Benitz:

This is in response to your letter of May 8, 1969, in which you asked for an opinion on the question of whether or not the County Clerk of your County could receive necessary and actual expenses incurred by him in fulfilling the duties under the county voter registration law (Chapter 114, RSMo).

We answer your question in the affirmative. Section 114.110-1. provides:

"The county court shall provide for and pay the expenses incurred under the operation of this chapter." (Section 114.110-1., RSMo Supp. 1967)

We interpret this to be adequate authority for the County Court to reimburse the County Clerk only for his ". . . bona fide, reasonable and actual expenditures for indispensable expenses of the office . . ." (Rinehart v. Howell County, 153 S.W.2d 381, 382 (Div. 2, 1943)).

The fact that the County Clerk's salary and compensation is fixed by Chapter 51, RSMo, does not preclude this result, for we believe it well settled that these terms are different from the word "expenses".

Honorable Melvin D. Benitz

"This question, whether allowances to officers for expenses come within the meaning of the word 'compensation', has arisen in several cases.

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"From these authorities, the reasoning quoted, and the principle last mentioned it follows that the provision for the payment of expenses of circuit judges did not provide additional 'compensation' in the constitutional sense or in the sense of section 10695, RS 1909, . . . ." (Macon County v. Williams, 224 S.W. 835, 836, 837 (Mo. en banc 1920)).

What expenses are actually and necessarily incurred by the County Clerk in performing duties pursuant to Chapter 114 should, we think, be left in the first instance to the judgment of the County Court, which has the:

" . . . discretionary quasi-legislative function and duty, State ex rel Dietrich v. Daves, 315 Mo. 701, 287 S.W. 420, of determining the necessity and amount of expenditures not otherwise specifically provided for by statute . . . ." (Miller v. Webster County, 228 S.W. 2d 706, 708 (Div. 2, 1950)).

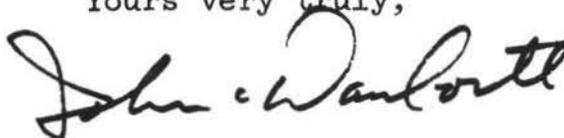
However, as an example, we believe the County Court could properly pay the Clerk's travel expenses for trips around the County of Callaway other than daily commuting to and from work and residence insofar as such travel is determined by the County Court to be indispensably necessary in carrying out his official duties.

#### CONCLUSION

It is the opinion of this office that the County Court of Callaway County may properly reimburse the County Clerk for expenses actually and necessarily incurred by him in performing official duties required to be performed under the County Registration Law (Chapter 114, RSMo).

The foregoing opinion, which I hereby approve, was prepared by my assistant, Louren R. Wood.

Yours very truly,



JOHN C. DANFORTH  
Attorney General