

ELECTIONS:
ELECTION JUDGES:
ELECTION CLERKS:
COMPENSATION:

Section 111.241, RSMo 1969, applicable to certain election judges and clerks, does not limit the compensation for such judges and clerks to \$12.00 per day, but provides that the compensation shall be at least \$12.00 per day.

OPINION NO. 306

July 28, 1970



Honorable Thomas R. Gilmore
Prosecuting Attorney
Scott County
217 South Kingshighway
Sikeston, Missouri 63801

Dear Mr. Gilmore:

This is in reply to your letter of April 14, 1970, requesting an opinion from this office in answer to the following question:

Does Section 111.241, RSMo 1969, now give the election authorities carte blanche in determining how much to compensate judges and clerks of elections?

We set forth Section 111.241:

"Judges and clerks of election shall be paid not less than twelve dollars a day for their services in conducting elections and returning the poll books and ballots to the county clerk's office."

Such section was enacted by Senate Bill No. 134, 75th General Assembly. Its content is similar to repealed Section 111.353, Laws, Missouri 1965, page 237, which provided:

"Any other provision of law to the contrary notwithstanding all judges of elections shall be allowed the sum of not less than twelve dollars a day, and all clerks of election shall be allowed the sum of not less than twelve dollars a day as compensation for their services in conducting elections and returning poll books and ballots to the county clerk's office."

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Section 111.350, RSMo 1959, provided for a maximum payment for judges and clerks of election, as follows:

"All judges and clerks of election shall be allowed such compensation for their services in conducting elections and returning the poll books and ballots to the county clerk's office, as the county courts of their respective counties deem reasonable, not to exceed eight dollars per day, except in townships or precincts where the vote at any election is in excess of six hundred votes the county courts may at their option pay at the rate of fifty cents per hundred for each additional one hundred votes or major fraction thereof, not to exceed ten dollars for any election, to be paid out of the county treasury."

However, unlike Section 111.350, both repealed Section 111.353 and newly enacted Section 111.241 do not set a maximum amount allowed but rather set a minimum amount allowed. It would seem that the legislature's intent was to remove the maximum ceiling and to replace it with a minimum floor; this would remove the need of an amendment as compensation is increased.

The legislature has provided for payment of specific amounts for judges and clerks not coming within the purview of Section 111.241. For example, Section 119.260, RSMo 1969, applicable to counties not having a provision for registration of voters and having a city or part of a city of 400,000 within the boundaries of the county provides as follows:

"The compensation of all judges and clerks of registration and election shall be at the rate of ten dollars for each calendar day or any part thereof. For returning registration books, verification books, ballots and election returns two judges of opposite politics, a judge and a clerk of opposite politics, or the two clerks, as the case may be, from each precinct, shall be paid the sum of two dollars each for going to the office of the board of election commissioners; except in any case where the distance is less than three miles from the office of the board of election commissioners, in which case not to exceed one dollar for each shall be paid."

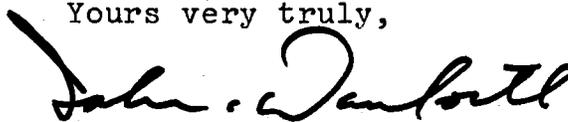
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Since the legislature repealed the section fixing a maximum amount and has enacted other laws providing for payments of specific amounts, it is reasonable to assume that the phrase "not less than" used in Section 111.241 is to be taken as a minimum amount and not as a specific amount or a maximum amount.

CONCLUSION

It is the opinion of this office that Section 111.241, RSMo 1969, applicable to certain election judges and clerks, does not limit the compensation for such judges and clerks to \$12.00 per day, but provides that the compensation shall be at least \$12.00 per day.

Yours very truly,



JOHN C. DANFORTH
Attorney General