

COUNTIES: COUNTY CLERKS: County Clerk not entitled to extra compensation for his services in connection with the preparation of county budget. Under Section 12165, Laws of Mo. 1933, pages 355 and 356, County Clerk, where he becomes the designated person under said section may receive compensation for furnishing financial statement. Amount received must not exceed the aggregate amount of fees set out under Sec. 11811, Laws of 1933, page 370.

December 19, 1934.

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Mr. Arthur Huff
Clerk of the Iron County Court
Ironton, Missouri

Dear Sir:

This department wishes to acknowledge your letter of recent date wherein you state in part as follows:

"We did a lot of work in this office last spring in the preparation of the county budget, and I am wondering if the County Court would have authority to allow me anything for this work should they feel so disposed; also what compensation would the Court have authority to grant me for preparing the financial statement, and if, in your opinion, the Court would be justified in making me an allowance in either case would I be required to account for same as part of the ordinary fees of the office, or could I retain either without rendering an account therefor?"

Laws of Missouri, 1933, Section 1, page 340, dealing with the County Budget Law, provides in part as follows:

***** All counties now or hereafter having a population of 50,000 inhabitants or less, according to the last federal decennial census, shall be governed by Sections 1 to 8 inclu -

sive of this act. **** It is hereby made the duty of the clerks of the county courts of the several counties of this state to prepare all data, estimates and other information needed or required by the county court for the purpose of carrying out the provisions of this act. *****"

Iron County has a population of 9,642, according to the last federal decennial census and would be governed by the above section as it relates to the county budget law.

It is a well-settled law in this State that whenever a county officer seeks to impose a charge upon the county and collects a fee for services performed, he must be able to point out the section in the statutes which authorizes the payment of the fee.

The rule is announced in Sanderson v. Pike County, 195 Mo. 598, 1. c. 605, as follows:

***** It is a well-settled law in this State that the right to compensation for the discharge of official duties is purely a creature of the statute, and that the statute which is claimed to confer that right must be strictly construed. The right of a public officer to compensation is derived from the statute, and he is entitled to none for services he may perform as such officer, unless the statute gives it. (State ex rel. v. Adams, 172 Mo. 1-7; Jackson County v. Stone, 168 Mo. 577; State ex rel. v. Walbridge, 153 Mo. 194; State ex rel. v. Brown, 146 Mo. 401; State ex rel. v. Wolford, 116 Mo. 220; Givens v. Daviess Co., 107 Mo. 603; Williams v. Chariton Co., 85 Mo. 645; Gammon v. Lafayette Co. 76 Mo. 675.)"

We find the duty is upon the Clerk of the County Court to prepare the county budget but no provision is made for payment of fees and we are of the opinion that the county court would have no authority to allow you anything for your services in the preparation of your budget even if they felt so disposed.

Laws of Missouri, 1933, Section 12166, pages 356 and 357, provides for the payment and for the person designated to prepare the financial statement for the county - said section among other things provides:

****The county court shall not pay the publisher until said proof of publication is filed with the court and shall not pay the person designated to prepare the statement for the preparation of the copy for said statement until the State Auditor shall have notified the court that said proof of publication has been received and that it complies with the requirements of this Section.
**** For the preparation of the copy for the statement the court may allow not to exceed the price per hundred words and figures permitted to the clerk of the court for the writing of the record and no pay shall be allowed for pasting printed copy in the record.
****"

Section 12165, Laws of Missouri, 1933, pages 353 - 356, among other things provides:

*****Or if no one has been designated said statement having been prepared by the county clerk, signature shall be in the following form:

'Clerk of the County Court and ex-officio officer designated to prepare financial statement required by Section 12165 Revised Statutes 1929.*"

Under the foregoing section, the County Court is authorized to appoint as a designated person to prepare a financial statement any person, or upon the failure of the court to designate a person to prepare the financial statement required by Section 12165, supra, the County Clerk becomes the ex-officio officer, designated under the statutes to prepare the financial statement.

Under Section 12166, supra, it is the duty of the County Court to pay the person designated, whether it be an outsider or the County Clerk to prepare the financial statement and the amount of compensation is limited not to exceed the price per hundred words and figures permitted to the clerk of the court for the writing of the record and no pay shall be allowed for pasting the printed copy in the record.

In view of the foregoing statutes, we believe that the Legislature has authorized and directed the County Court to pay the County Clerk for performing the services of preparing the financial statement, whenever the County Court has failed to designate some other person to prepare this statement.

It is, therefore, the opinion of this department that if you became the ex-officio officer designated to prepare the financial statement as required by Section 12165, supra, then you may recover compensation for preparing such statement for the years 1933-1934 at which time Sections 12165 and 12166, supra, were in effect.

Laws of Missouri, 1933, Section 11811, page 370, provides the aggregate amount of fees that any clerk of the County Court under Articles 2 and 3 of Chapter 84 of the Revised Statutes of Missouri, 1929, may retain for any one year's service:

***** In counties having a population of less than 7,500 persons, the less than 10,000 persons, the clerks shall be allowed to retain \$1100.00 for themselves; and shall be allowed to pay for deputies and assistants \$900.00; *****

Iron County, according to the last federal decennial census, would be governed by the above section. We are, therefore, of the opinion that if you became the ex-officio officer designated to prepare the financial statement as required by Section 12165, the compensation you may recover for preparing such statement added to the regular fees of your office must not exceed the aggregate amount set out above for any one year's service.

Respectfully submitted.

WM. ORR SAWYERS
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

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