

STATE BOARD OF HEALTH:

BURIAL AND BIRTH CERTIFICATES:

) (1) City of St. Louis —y provide a reasonable fee by ordinance for transcripts, certified copies and correction of records; (2) The City of St. Louis cannot by ordinance provide a fee for issuing burial, removal or cremation permits.

November 20, 1935.

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Honorable John G. Burkhardt
Tax Attorney, Law Department
The City of St. Louis
St. Louis, Missouri

Dear Mr. Burkhardt:

This is to acknowledge your letter dated November 18, 1935, as follows:

"This department recently rendered an opinion to the effect that the Bureau of Vital Statistics had the right to establish fees and charges for transcripts and certified copies of birth and death records. Pursuant to this opinion, the Board of Aldermen has recently passed Board Bill No. 145, a copy of which is attached hereto.

"We would greatly appreciate the opinion of your office upon the following questions:

"Does the opinion of the City Counselor's office, referred to above (a copy of which is enclosed), conflict with the state law?

"Under the state law, does the City of St. Louis have authority to make a charge for burial, removal or cremation permits?

"Inasmuch as Board Bill No. 145 has been presented to Mayor Dickmann for his approval

or disapproval, we would greatly appreciate an early reply, so that the opinion may be taken into consideration by the Mayor when action is taken on this bill."

Appended to your letter was a copy of an opinion rendered by you to Hon. A. C. Meyers, concerning the same subject inquired about in your letter, and also copy of Ordinance introduced by Mr. Collins. We agree with the conclusion reached in your opinion but as same does not discuss the question as to the right of the City of St. Louis to charge for burial, removal or cremation permits, we deem it best to write on the entire subject matter.

Board Bill No. 145 is "an ordinance establishing fees to be paid for the services of the Bureau of Vital Statistics of the Health Division of the Department of Public Welfare, and containing an emergency clause" of the City of St. Louis.

Section 1 of said Bill provides as follows:

"Section One. The Bureau of Vital Statistics of the Health Division of the Department of Public Welfare is hereby authorized to charge the following fees:

"For each transcript of birth or death record	Twenty-five Cents (25¢)
For certified copy of birth or death record	Fifty Cents (50¢)
Charge <u>per hour</u> for search of records	Fifty Cents (50¢)
For each burial, removal or cremation permit	One Dollar (\$1)
For correction of existing records of birth or deaths occurring prior to 1910	Two Dollars (\$2)"

A reading of the provisions of Section 1 shows two things: (1) A fee to be exacted for certain transcripts or certified copies of records, and (2) a fee to be charged "for each burial, removal or cremation permit."

We are of the opinion that the City of St. Louis by ordinance may exact a fee for transcripts and certified copies of birth or death records, also a charge per hour for search of records, and also a fee for correction of existing records of births or deaths occurring prior to 1910.

We are of the further opinion that no fee may be charged by the City of St. Louis for burial, removal or cremation permits Article 2, Chapter 52, R. S. Mo. 1929, and amendments, pertain to "Registration of Births and Deaths" and Section 9043 of said article and chapter provides in part as follows:

"Provided, that in cities where health officers or other officials are conducting effective registration of births and deaths under local ordinances at the time of the taking effect of this article, such officers shall be continued as registrars in and for such cities, and shall be subject to the rules and regulations of the state registrar, and to all of the provisions of this article.
* * * *"

We assume that the City of St. Louis had an effective registration of births and deaths under local ordinance at the time Article 2 became effective.

Section 9059, R. S. Mo. 1929, provides for the fees for local registrars, and contains this provision:

"Provided, however, that in cities having a population of one hundred thousand or over, where health officers or other officials are conducting effective registration of births and deaths under local ordinances, such officers being continued as registrars in and for such cities as provided in section 9043, and being paid by such cities salaries for their official

services, said officers shall not be entitled to nor have power to collect any fee provided for in this section, but such salaries shall be in full compensation also for their services as registrars: Provided further, that such cities shall provide the office accommodations, clerical help, office furnishings and supplies necessary to enable such officer to properly perform the duties of registrar."

We agree with your opinion as to the interpretation of that section pertaining to the subject under discussion as follows:

"You will note from this section that in cities having a population of 100,000 or over, health officers that are being paid a salary by the city shall not be entitled to charge a fee provided for by this section. This, however, in our opinion, refers to the fee which the local registrar receives from the State Board of Health, and which, in turn, is chargeable back to the County Court. In other words, there is no prohibition, as we see it, upon the right of a city to charge a fee for birth and death certificates furnished to the general public, while there is a prohibition against charging a fee to the State Board of Health for information forwarded in accordance with the provisions of Chapter 52 of the Revised Statutes of Missouri 1929." (Underscoring ours.)

The State Registrar exacts fees for certified copies of records of any birth or death registered under the provisions of Article 2. We invite your attention to Section 9060, R. S. No. 1929, which provides in part as follows:

"The state registrar shall, upon request, furnish any applicant a certified copy of the record of any birth or death registered under provisions of this article, for the making and certification of which he shall be entitled to a fee of fifty cents, to be paid by the applicant. * * * * * For any search of the files and records, when no certified copy is made, the state registrar shall be entitled to a fee of fifty cents for each hour or fractional hour of time of search, to be paid by the applicant. * * * * *"

The fees proposed to be charged by Board Bill No. 145, are reasonable in view of the amount permitted to be charged by the State Registrar by virtue of Section 9060, supra. We are, therefore, of the opinion that the fees to be charged for the transcripts and certified copies and for the correction of existing records prior to 1910, are reasonable.

As hereinbefore stated, it is our opinion that the provision in Board Bill No. 145, exacting a fee of \$1.00 "for each burial, removal or cremation permit" is unwarranted and violative of Article 2, Chapter 52, in particular Section 9044, R. S. No. 1929, as amended, Laws of Missouri, 1933, page 270. The 1933 law provides in part as follows:

"The body of any person whose death occurs in the state shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district until a permit for burial, removal or other disposition shall have been properly issued by the local registrar of the registration district in which the death occurs. Provided, * * * * *; and no local registrar shall, as such, require

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from undertakers or persons acting
as undertakers any fee for the privilege
of burying dead bodies."

Therefore, if the City of St. Louis by ordinance
exact a fee of \$1.00 "for each burial, removal or cremation
permit" it would be clearly violative of Section 9044, supra,
and such is our opinion.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney-General.

JLH:EG