

COUNTY CLERK: Sections 12165 and 12166 Laws of Mo. 1933 became effective 90 days after approval by Governor and compensation of County Clerk since that time, if appointed to prepare a financial statement of the county, is not to exceed 10¢ per 100 words and figures.

March 18, 1935.



Hon. Raymond Hall,
Clerk of County Court,
Schuyler County,
Lancaster, Missouri.

Dear Sir:

This department is in receipt of your letter of some time ago relating to payment of the county clerk for the preparation of the financial statement of the county, as follows:

"I would like to have your opinion on the price to be paid to the agent, appointed to prepare the financial statement for publication.

From what I gather the agent is to receive 10¢ per hundred words and figures for the preparation and no more and that also this applied to last year.

However, the Clerk of last year received \$150.00 for the preparation and it contained less than 60,000 words and figures; according to that he should have received only about \$60.00 instead of the \$150.

Or is this due to the fact that this is an unaccountable fee the court can pay what they choose?"

Section 12165, Laws Mo. 1933 page 355, referring to the preparation of the county financial statement, 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."

The next section, 12166, Laws of Mo. 1933, page 356 contains the following provision for the compensation for the preparation of the statement:

"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. In submitting bill to the county court the person preparing the statement and the publisher shall itemize the amount as properly chargeable to the several funds and the county court shall pay out of each fund in the proportion that each item bears to the total cost of preparing and publishing said statement and shall issue warrants therefor."

The time for preparing and publishing the statements is contained in the first sentence of Section 12165, Laws of Mo. 1933, page 353 and is as follows:

"On or before the first Monday in March of each year after the taking effect of this act the county court of each county in this state shall prepare and publish in some newspaper of general circulation published in such county, if such there be, and if not by notices posted in at least ten places in such county, a detailed financial statement of the county for the year ending December 31, preceding.*****"

This Act repealed the old Sections 12165 and 12166, R.S. Mo. 1929 and was approved April 7, 1933 and became effective 90 days thereafter.

The new section 12166, Laws of Mo. 1933, page 356-357 contains the following provision: "Within twelve months after the effective date of this act the State Auditor shall prepare sample

forms for financial statements and shall mail the same to the county clerks of the several counties in this state, but failure of the auditor to supply such form shall not in anywise excuse any person from the performance of any duty imposed by this act."

Irrespective of the above provisions, we hold that the Act became effective 90 days after its approval by the Governor on April 7, 1933. As heretofore quoted, the compensation for preparing the statement shall not exceed the price per 100 words and figures permitted to the clerk of the county court for the writing of the record. It will therefore be necessary to determine what the Legislature intended that statement to mean.

Section 11781, R.S. Mo. 1929 is the guide for the county clerk in the matter of his fees. Among others, we find the following:

"For copying the petitions, orders, plats and surveys of roads and all other records pertaining thereto, for every hundred words and figures, to be paid by the petitioners.....10¢

For copies of records and papers not hereinbefore provided for, for every hundred words.....10¢

For recording every paper not hereinbefore provided for, for every hundred words.....10¢"

The statute makes no specific provision for compensating the county clerk "for the writing of the record"; hence, we are confronted with the question of what the Legislature's intent was for the compensation of the county clerk. We quote the above provision of Section 11781 for the reason that the provisions appear to be similar in compensating the county clerk for his duties in preparing the financial statement of the county.

CONCLUSION

As stated above, there is no statutory fee allowed the county clerk for the writing of the record, but in view of the provisions hereinabove quoted relating to the fees of the county clerk, it is the opinion of this department that Sections 12165 and 12166, Laws of Mo. 1933 became effective 90 days after the date of their approval by the Governor, and that the compensation of the county clerk since that time, if he has been designated and appointed to prepare a financial statement of the county is

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not to exceed 10¢ per hundred words and figures. This, we believe, to have been the intention of the Legislature in fixing the fees of the county clerk, and we accordingly so hold.

Respectfully submitted,

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