

CIRCUIT CLERK--DRAINAGE DISTRICT: Fees allowable to
Circuit Clerk in drainage cases under special Act of
the Legislature.

October 29, 1935.



Hon. J. Monroe Robins
Prosecuting Attorney
Bollinger County
Marble Hill, Missouri

Dear Sir:

We acknowledge your request for an opinion dated
September 25, 1935, which reads as follows:

"Upon the request of Loren A. Shell
Circuit Clerk of Bollinger County,
Missouri, I will ask you a question
as follows:

"What are the Circuit Clerks fees
(per 100 words and figures) for the
copies of petitions in Drainage Dis-
tricts, where the Drainage Districts
furnishes the Circuit Clerk with the
copies?"

Article IV, Chapter 64, R. S. Mo. 1929 is a special
Act of the Legislature pertaining to fees for services
rendered in organizing drainage and levy districts in
Missouri. Section 10878 of said Act and Chapter provides:

"That it is understood that the
ordinary fee statute does not apply
to services rendered by any county
or township officer or witness in
the organization, incorporation or
administration of any drainage or
levee districts heretofore organized,
in process of organization at the
time of passage of this article, or
that hereafter may be organized under
any general or special law of Missouri
permitting the organization of drain-
age or levee districts, but that such
officer or witness, except as is
otherwise provided for in the subse-

quent sections of this article, shall receive only a reasonable compensation to be fixed by the courts for services actually rendered, that petitioners for formation or incorporation of drainage and levee districts and the officers of such districts after the same have been organized may prepare, write or print all copies of petitions, writs, orders and decrees of courts and other papers pertaining to such districts and furnish the same to the county and circuit clerks or other officers for their use, and in such event such officer shall be entitled to only a reasonable compensation for services actually rendered the districts in issuing such writs and copies of decrees, orders or other papers."

Section 10879 R. S. Mo. 1929, provides:

"The county and circuit clerks, except as limited in section 10878 and otherwise specified in statutes governing the organization and administration of drainage and levee districts, shall receive (in addition to the fees and deputy hire allowed under the provisions of section 11811, R. S. 1929), for filing each paper relating to a drainage or levee district, five cents; for issuing each subpoena, summons or notice, and for approving and filing each bond, twenty-five cents; for recording or copying each one hundred words and numbers, eight cents, any number consisting of more than three figures to be considered as two numbers. The fees of the sheriffs and witnesses shall be the same as allowed in section 10878 of this article."

October 29, 1935.

CONCLUSION.
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Public officers in the performance of their official duty are allowed only those fees as the Legislature specifically provided. This is elemental law. Since the Legislature has limited, but otherwise specifically enumerated the allowable fees to a Circuit Clerk in officiating in the incorporation or administration of drainage or levee districts in Missouri, we must look to the law quoted, supra, for an answer to your question.

We are of the opinion that petitioners or officers of drainage and levee districts may prepare copies of their petitions, writs, orders and decrees of courts, and copies of any other papers pertaining to drainage or levee districts, and may furnish said copies to the Circuit Clerk, in which case the Circuit Clerk is not entitled to a fee for making said copies. In the handling of said copies of petitions, writs, orders and decrees of court, and copies of other papers pertaining to drainage or levee districts, which are furnished the Circuit Clerk by petitioners or officers of a drainage or levee district, the Circuit Clerk can charge a fee only for services which his office actually rendered, and where copies are prepared and furnished the official service of copying cannot be said to be a service which the Circuit Clerk actually renders. The Legislature so intended in plain language. Where copies are not furnished, then the Clerk, when required to make copies, is entitled to charge on a basis of eight cents for each one hundred words. For recording he is entitled to eight cents for each one hundred words. For filing each paper he is entitled to five cents. For issuing subpoenas, summons or notices, and for approving each bond, he is entitled to twenty-five cents. For issuing writs other than subpoenas, summons or notices, he is entitled only to a reasonable compensation in an amount fixed by the Court.

Respectfully submitted

APPROVED:

WM. ORR SAWYERS
Assistant Attorney General.

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

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