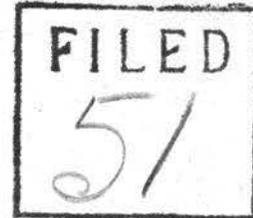


PENAL INSTITUTIONS: Commissioners may not make lump sum allowances for extraordinary services performed by employe, over and above fixed salary.

December 31, 1936.



G. H. Lane
Commissioners of Department of
Penal Institutions,
Jefferson City, Missouri.

Gentlemen:

This is to acknowledge receipt of letter dated December 7, 1936, addressed to your Board, written by the Secretary and Assistant Secretary at the State Penitentiary, in which you orally request the opinion of this Department on the matters set forth in their letter to you. We deem it unnecessary to set forth in detail the matters contained in their letter, but suffice it to say it sets forth additional and special services which they alleged were performed at the Penitentiary in caring for and looking after financial matters of convicts and looking after and caring for the "Earnings Fund" at the Penitentiary. It is further stated in said letter that they have not received any Holidays or vacations during their tenure in office.

The request for opinion, as we understand it is whether or not they may be granted, namely, the Secretary \$350.00 and the Assistant Secretary \$250.00, for extra services over a period of three and one-half years, in addition to their regular salaries as fixed or agreed upon by the Board.

Section 8394, R. S. Mo. 1929, provides specifically for certain officers and their salaries at the Penitentiary and then further in said section this language is used:

"* * * All other officers and employes shall receive such compensation as may be agreed upon between them and said board. All salaries shall be paid in

Dec. 31, 1936.

monthly installments. The board shall make a pay roll containing the names of every officer and employe, with the amount due each, which shall be kept at the penitentiary and a certified copy thereof filed in the office of the State Auditor. Such salaries shall be paid out of the fund appropriated for the pay of civil officers: * *"

The above named Secretary and Assistant Secretary are not specifically named in said section and their salaries are not fixed therein, but the authority for their appointment is found in the above quoted portion of the section, and their compensation is such as may be agreed upon between them and said Board. We take it that the salaries paid the above officers have been agreed upon and fixed by the Board and each are receiving a certain monthly salary.

It is our opinion that the Board would not have authority to grant to the above officials the sums as stated above for extraordinary or special services performed by them.

It makes no difference how meritorious or just a claim for extra or additional services may seem, we do not think it is within the power and authority of the Board to grant same under the above circumstances. However, where the Board has a discretion in fixing the amount, the officers or employes shall receive, as the Board does in this case, it may take such matters as stated above into consideration in fixing the salaries of said officers and employes.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General