

TOWNSHIP CLERKS: No fee for drawing or writing warrant.

May 15, 1939

6-16



Hon. Charles S. Greenwood  
Prosecuting Attorney  
Livingston County  
Chillicothe, Missouri

Dear Sir:

This will acknowledge receipt of your letter of May 4, 1939, in which you request our opinion on the following:

"Section 12310, session acts of 1931 is being construed in various ways by the township clerks.

"I wish your opinion on whether or not the township clerk is entitled to a fee of ten cents (.10¢) for writing each warrant over and above the regular \$2.50 per day.

"If this section does not authorize such payment, is there any authority for the same."

Section 12310, Laws of 1931, page 377, provides that the township clerk, as clerk, shall receive two dollars and fifty cents (\$2.50) per day for his services. The section also contains a proviso limiting the first part granting two dollars and fifty cents (\$2.50) per day, and to the effect that for certain services, the township clerk is not to be paid per diem for certain services, but is to be paid certain fees. These services are for serving election notices; for filing any instrument of writing authorized by law; for copying and certifying any record in his office.

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It is apparent that this statute does not authorize the township clerk to receive anything additional to the two dollars and fifty cents (\$2.50) per day for writing warrants.

Our research does not disclose any statute which operates to give the township clerk any additional compensation for writing warrants.

In State ex rel. v. Brown, 146 Mo., l.c. 406, the court said:

"It is well settled that no officer is entitled to fees of any kind unless provided for by statute, and being solely of statutory right, statutes allowing the same must be strictly construed. State ex rel. v. Wofford, 116 Mo. 220; Shed v. Railroad, 67 Mo. 687; Gammon v. Lafayette Co., 76 Mo. 675. In the case last cited it is said: 'The right of a public officer to fees is derived from the statute. He is entitled to no fees for services he may perform, as such officer, unless the statute gives it. When the statute fails to provide a fee for services he is required to perform as a public officer, he has no claim upon the state for compensation for such services.' Williams v. Chariton Co., 85 Mo. 645."

CONCLUSION

Therefore, it is our opinion that the township clerk is not entitled to any additional fee for writing warrants.

Respectfully submitted,

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Assistant Attorney General

APPROVED By:

J.E. TAYLOR  
(Acting) Attorney General

LLB:VAC