

ELECTIONS:  
BOARD OF ELECTION  
COMMISSIONERS:  
COMPENSATION OF  
ASSISTANTS:

Board of election commissioners in certain cities may fix the compensation of assistants and provide whether such compensation shall be for calendar days or for days which assistants are actually on duty.

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January 25, 1940 1/26



Honorable Charles M. Hay, Chairman  
Board of Election Commissioners  
208 South Twelfth Blvd.  
St. Louis, Missouri

Dear Sir:

This is in reply to yours of recent date requesting an opinion on the following statement of facts:

"The Election Law of 1937 applicable to the City of Saint Louis provides in Section 81 thereof that certain assistants of the Board of Election Commissioners 'shall receive such salaries as the Board may determine, not to exceed \$6.00 per day.'

"The law in force at the time this act was passed (R. S. 1929, Section 10654) provided that the assistants I am now referring to 'shall receive not to exceed \$6.00 per day for the time actually employed.'

"The old act had the same provision with respect to the compensation of judges and clerks, to-wit: 'Precinct judges and clerks shall receive as pay \$6.00 for each day or part of day while on duty, etc.'

"The question on which I wish your opinion is this: Has the Board, under the law in force now, authority to pay the assist-

ants referred to at the rate of \$6.00 per day for calendar days, without limiting the compensation to the days actually on duty as provided in the old law?"

The powers and duties of the board of election commissioners are purely statutory and that board must look to the statute for its authority.

On the question of the election commissioners employing assistants, we find that in Laws of Missouri 1937, at page 277, Section 81 it is provided as follows:

"The salaries of the Election Commissioners and assistants shall be paid one-half by any such City and one-half by the County in which such City is located, or if such City be not within a county, then such salaries shall be paid in full by such City. The members of such Board shall receive a salary of three thousand (\$3,000) dollars per year each, payable monthly; the Chief Clerk shall receive a salary of three thousand (\$3,000) dollars per year payable monthly; other assistants not exceeding seven in number, shall each receive salaries as the Board may determine, not to exceed twenty-four hundred (\$2,400.00) dollars per year, payable monthly, and all additional assistants, if any, shall receive such salaries as the Board may determine, not to exceed six (\$6.00) dollars per day. Precinct judges and clerks shall receive as pay six (\$6.00) dollars for each day or part of day while on duty, except pay shall be allowed only for those days mentioned in this Act."

Hon. Charles M. Hay

(3)

January 25, 1940

As stated in your letter, Section 10654, R. S. Missouri 1929, provided that the assistants to the election commissioners should receive, not to exceed six dollars per day, for the time actually employed. Since Section 81, supra, does not state that the compensation of six dollars per day shall not be limited to the time actually employed by such assistant, then you raise the question of whether or not the six dollars per day shall be paid during the time which the assistant is employed whether or not he is on duty.

It will also be noted under said Section 81 that the lawmakers, in authorizing the board of election commissioners in providing for additional assistants, also provided that these assistants would receive such salary as the board might determine not to exceed six dollars per day.

By leaving out of the new section the provision of said Section 10654 that the assistants were to be paid only for the days on which they were on duty, and by providing in the new section that the board might determine and fix their salaries, we think the question of whether or not such assistants would receive the pay provided by the board, whether or not they were on duty, was to be left to the board.

CONCLUSION.

From the foregoing it is the opinion of this department that the board of election commissioners, in determining and fixing the compensation of assistants to the board, may determine whether or not such compensation shall be paid at the rate of so much per day for calendar days, or whether or not such pay shall be limited to the days on which such assistants are actually on duty.

Respectfully submitted

APPROVED:

TYRE W. BURTON  
Assistant Attorney General

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W. J. BURKE  
(Acting) Attorney General

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