

SCHOOLS: Maximum compensation of secretary of school board of a town or city school district organized under Article 5, R.S. Mo. 1939, is \$150.00 per year.

10-6-50

October 2, 1950

Honorable James T. Riley  
Prosecuting Attorney  
Cole County  
Jefferson City, Missouri



Dear Sir:

Your letter at hand requesting an opinion of this department, which, in part, reads:

"Section 10501, R.S. Mo. 1939, Laws of Missouri, 1945, p. 1654, provides that the compensation of a secretary of the Public School Board of a city, town or village may receive reasonable compensation for services not to exceed \$150.00 annually. I assume the provisions of that section apply to consolidated districts formed under the preceding sections.

"I would like to have your opinion on the following questions:

"a. Does the \$150.00 limitation apply to a secretary who is not a member of the Board?

"b. May a School Board increase the compensation paid its secretary by paying the secretary a fixed amount each month for travel expense? The amount of such payment being fixed and determined in advance irrespective of miles traveled, if any.

"c. May such a School Board increase the compensation paid its secretary by paying the secretary a fixed amount each month for miscellaneous expense? The amount of such payment being fixed and determined in advance irrespective of expenses actually incurred, if any."

Honorable James T. Riley

Your opinion request inquires into the manner of compensating the secretary of a school district organized under the provisions of Article 5, R.S. Mo. 1939.

Section 10470, Laws of Missouri, 1945, page 1650, in part, provides:

"Within four days after the annual meeting, the board shall meet, the newly elected members, who shall be qualified by the taking of the oath of office prescribed by Article VII, Section 11, of the Constitution of Missouri, and the board organized by the election of a president and vice-president, and the board shall, on or before the fifteenth day of July of each year, elect a secretary and a treasurer, who shall enter upon their respective duties on the fifteenth day of July; said secretary and treasurer may be or may not be members of the board. \* \* \*"

The above section provides for the election of a secretary and treasurer of the type of school district in question, and it is noted that the statute provides that said officers may be or may not be members of the school board.

Section 10501, Laws of Missouri, 1945, page 1654, in part, provides:

"No member of any public school board of a city, town or village in this state having less than twenty-five thousand inhabitants shall hold any office or employment of profit from said board while a member thereof except the secretary and treasurer, who may receive reasonable compensation for their services: Provided, the compensation of the secretary shall not exceed one hundred and fifty dollars, and that of the treasurer shall not exceed fifty dollars for any one year; \* \* \*"

As we interpret Section 10501, above, it provides first that no member of the school board is entitled to hold any office or employment of profit with said school board except that of secretary and treasurer.

Honorable James T. Riley

The second proviso of the statute pertains to the compensation of the secretary and treasurer, which we interpret to be applicable whether the secretary or treasurer is or is not a member of the school board. The statute is clear in providing that the compensation of the secretary shall not exceed \$150.00 for any one year.

We might further point out that the organization of consolidated school districts, as well as city and town districts, is provided for in Article 5, R.S. Mo. 1939, and the provisions of Section 10501, supra, would be applicable to consolidated school districts in view of the provisions of Section 10487, R.S. Mo. 1939, which, in part, provides:

" \* \* \* When such new district is formed it shall be known as 'Consolidated district No. \_\_\_\_\_ of \_\_\_\_\_ county,' and shall organize at a special meeting within fifteen days after the formation thereof; such organization and the government of such consolidated district shall be under and in compliance with the laws governing town and city school districts as provided in article 5 of this chapter."

Consequently, in answer to the question presented in paragraph (a) of your letter, we believe that the \$150.00 limitation applies to a secretary who is not a member of the school board.

Our examination of the statutes fails to disclose any other statutory provision which would grant additional compensation to the secretary of the school board.

We further believe that the rule applicable to public officials pertaining to their compensation would also apply to the secretary as an official of the school board, and it has been held that the right of a public official to compensation must be founded on a statute and that generally they may not receive compensation in addition to that authorized by law. *Nodaway County v. Kidder*, 129 S.W. (2d) 857, 344 Mo. 795; *Smith v. Pettis County*, 136 S.W. (2d) 282, 345 Mo. 839; *Rinehart v. Howell County*, 153 S.W. (2d) 381, 348 Mo. 421.

Therefore, in the absence of any statutory provision that would permit compensating the secretary of the school board in the manner set out in paragraphs (b) and (c) of your letter, it is our belief that such additional compensation would not be allowed.

Honorable James T. Riley

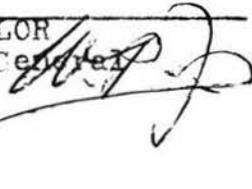
CONCLUSION

It is therefore the opinion of this department that the secretary of a school board of a city, town or consolidated school district organized under the provisions of Article 5, R.S. Mo. 1939, is only entitled to the annual compensation of \$150.00, even though said secretary is not a member of the board. It is further the opinion of this department that the secretary of the school board is not entitled to additional compensation for traveling expenses or miscellaneous expenses on a fixed amount basis per month, regardless of miles traveled or miscellaneous expenses actually incurred.

Respectfully submitted,

RICHARD F. THOMSON  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General 

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