

MAGISTRATE CLERKS:

A county is authorized to pay to the clerk of a magistrate court a sum in addition to the amount paid by the state.

June 9, 1950



Mr. Raymond Vogel
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Building
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Dear Sir:

This department is in receipt of your request for an official opinion. You thus state your request:

"I would like to have your official opinion with regard to the questions set out below.

"Section 2811.121 of the Revised Statutes of Missouri provides that the total salary of clerks, deputies and other employees paid by the state shall in no event exceed the annual amount fixed in this act for clerk and deputy clerk hire of such courts, provided, that in any county where need exists, the county court is hereby authorized, at the cost of the county, to provide such additional clerks, deputy clerks or other employees as may be required and to provide funds for the payment of salaries or parts of salaries of clerks, deputy clerks and other employees, in addition to the amounts payable by the state under this act.

"Section 2811.122 provides that in counties with a population of more than 30,000 and less than 40,000 the salary paid by the state for the magistrate clerk shall be \$1800.00 per year. This is the amount now paid to the clerk of the magistrate court in Cape Girardeau County. The

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magistrate of Cape Girardeau County desires to pay to the clerk out of county funds \$300.00 per year in addition to the \$1800.00 paid to the clerk by the state. You will note that the county court may provide funds for the payments of salaries and parts of salaries...in addition to the amount payable by the state under this act.

"Under this statute is the county authorized to pay an additional sum to the clerk of the magistrate court which would cause the salary of the clerk to be in excess of the amount payable by the state?"

Section 2811.121 Mo. R. S. A. 1939, Laws of Missouri 1947, Volume I, page 241, states in part:

"In all counties each magistrate shall by an order duly made and entered of record appoint and fix the salary of a clerk of his court and may appoint such deputies and employees as may be necessary for the proper dispatch of the business of his court and fix their salaries at such sum as in his discretion may seem proper. The total salaries of clerk, deputies and other employees paid by the state shall in no event exceed the annual amount fixed in this act for clerk and deputy clerk hire of such courts; provided, that in any county where need exists, the county court is hereby authorized, at the cost of the county, to provide such additional clerks, deputy clerks or other employees as may be required and to provide funds for the payment of salaries or parts of salaries of clerks, deputy clerks and other employees, in addition to the amounts payable by the state under this act. * * *"

(Underscoring ours.)

Section 2811.122 provides the amount that shall be paid by the state for the salaries of magistrate clerks, which sums are determined by population of the county and in some instances also by assessed valuation. This section fixes limits beyond which the state cannot go in making such payments. However, it appears to

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us that the underscored portion of Section 2811.121, quoted above, gives the county authority to pay an additional sum to the clerks of the magistrate court.

CONCLUSION

It is the opinion of this office that a county is authorized to pay an additional sum to the clerk of the magistrate court which would cause the salary of the clerk to be in excess of the amount payable by the state.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:



J. E. TAYLOR
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