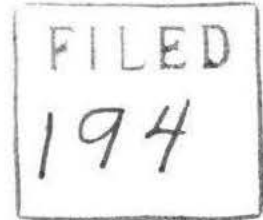


WORKMEN'S COMPENSATION:

No clerical employee of the Division of Workmen's Compensation can be paid more than four hundred fifty dollars (\$450.00) per month. There can be no class of employees in the Division of Workmen's Compensation with any salary rate between four hundred fifty dollars (\$450.00) and eight hundred dollars (\$800.00) per month.

OPINION NO. 194

May 19, 1970



Honorable Donald N. LaTowsky  
Acting Director  
Division of Workmen's Compensation  
Broadway State Office Building  
Jefferson City, Missouri 65101

Dear Director LaTowsky:

We have for consideration your request of February 13, 1970, the text of which is as follows:

"Your opinion regarding the interpretation of Section 287.615, RSMo. 1959, is earnestly solicited.

"Section 287.615 provides: 'The division may appoint or employ such other persons as may be necessary to the proper administration of this chapter. The salaries shall be not less than three hundred dollars nor more than four hundred fifty dollars per month for any clerical employee, all salaries to clerical employees within said range shall be fixed by the division and approved by the industrial commission, eight hundred dollars per month to any reporter or other employee and one thousand two hundred dollars per month to any legal advisor. . . .'

"Particular inquiry is made as to the term '. . . or other employee. . . .' It is to be noticed that the section provides 'The salaries shall be not less than three hundred dollars nor more than four hundred fifty dollars per month for any clerical employee, . . . eight hundred dollars per month to any reporter or other employee. . . .' Does this mean that between the statutory four hundred fifty limitation and the eight hundred limitation there exists no salary bracket?

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"The interpretation of the descriptive words 'other employee' is also desired. Does this section mandatorily state that an employee, having reached the clerical limit of four hundred fifty dollars per month, cannot be advanced in salary until he has reached a proficiency sufficient to entitle him to the eight hundred dollars per month salary mentioned in the Statute?"

A review of Section 287.615, RSMo, as revised in 1959 and as re-enacted and amended in 1961, 1963, 1965 and 1967 is helpful in the interpretation of this section.

As revised in 1959, Section 287.615 stated in part as follows:

"The division may appoint or employ such other persons as may be necessary to the proper administration of this chapter at salaries to be fixed by the division and approved by the industrial commission; provided, however, that such salaries shall in no case exceed the sum of two hundred and fifty dollars per month to any clerical employee, five hundred dollars per month to any reporter or other employee, or seven hundred dollars per month to any referee or legal advisor, except that a referee may be placed in charge of each of the offices of the division in St. Louis, Kansas City and Springfield, and each such referee and any referee in charge of any other branch office of the division may receive a salary of not to exceed seven hundred and fifty dollars per month; . . ."  
(Emphasis added).

It is noted that the salaries were to be approved by the Industrial Commission and that maximum salaries rather than fixed salaries were shown in the statute.

In 1961, the corresponding part of this section was changed to:

"The division may appoint or employ such other persons as may be necessary to the proper administration of this chapter at salaries to be fixed by the division and approved by the industrial commission; provided however, that such salaries shall in no case exceed the sum of three hundred dollars per month to any clerical employee, five hundred dollars per month

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to any reporter or other employee, seven hundred dollars per month to any legal advisor. The salary of each referee shall be seven hundred dollars per month, and the salary of each referee in charge of the offices of the division in St. Louis, Kansas City and Springfield, and any branch office of the division shall be seven hundred fifty dollars per month; . . ."

The effect of this revision was to increase the maximum salaries for clerical employees and to establish fixed salaries for referees.

The first sentence of this section was changed in 1963 to read as follows:

"The division may appoint or employ such other persons as may be necessary to the proper administration of this chapter and the salaries shall be not less than three hundred dollars nor more than four hundred dollars per month to any clerical employee, which salaries to clerical employees within said range shall be fixed by the division and approved by the industrial commission, five hundred fifty dollars per month to any reporter or other employee and seven hundred dollars per month to any legal advisor. . . ."

This change established minimum as well as maximum salaries for clerical employees, to be fixed by the Division and approved by the Industrial Commission. It removed the condition of approval by the Commission with respect to salaries other than for clerical employees. It is reasonable to construe the sentence as establishing fixed salaries for reporters or other employees, except clerical employees, and for legal advisors.

The same sentence structure was followed in the 1965 revision.

The 1967 revision of Section 287.615 is as follows:

"The division may appoint or employ such other persons as may be necessary to the proper administration of this chapter. The salaries shall be not less than three hundred dollars nor more than four hundred fifty dollars per month for any clerical employee, and all salaries to clerical employees within said range shall be fixed by the division and approved by

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the industrial commission; eight hundred dollars per month to any reporter or other employee; and one thousand two hundred dollars per month to any legal advisor. The salary of each referee shall be one thousand two hundred and fifty dollars per month, and the salary of each referee in charge of the offices of the division in St. Louis, Kansas City, Springfield, St. Joseph, Joplin, and Cape Girardeau, and any other branch office of the division shall be one thousand three hundred dollars per month. The appointees in each classification shall be selected as nearly as practicable in equal numbers from each of the two political parties casting the highest and next highest number of votes for governor in the last preceding state election." (Emphasis added).

The provision of minimum and maximum salaries for clerical employees and for approval of salaries of clerical employees by the Industrial Commission has been retained. Also, the section provides fixed salaries for reporters or other employees, except clerical employees, legal advisors and for referees. It requires Industrial Commission approval for clerical salaries only. When we remove the portion of the sentence pertaining to clerical salaries, the sentence reads "the salaries shall be . . . eight hundred dollars per month to any reporter or other employee and one thousand two hundred dollars per month to any legal advisor", and supports the interpretation indicated above.

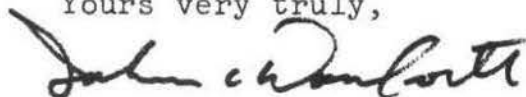
#### CONCLUSION

It is the opinion of this office that no clerical employee of the Division of Workmen's Compensation can be paid more than four hundred fifty dollars (\$450.00) per month.

There can be no class of employees in the Division of Workmen's Compensation with any salary rate between four hundred fifty dollars (\$450.00) and eight hundred dollars (\$800.00) per month.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Carroll J. McBride.

Yours very truly,



JOHN C. DANFORTH  
Attorney General