



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

October 31, 1974

OPINION LETTER NO. 347

Dr. Arthur L. Mallory
Commissioner, Department of
Elementary & Secondary Education
Sixth Floor, Jefferson Building
Jefferson City, Missouri 65101

Dear Dr. Mallory:

This letter is in response to your question asking:

"May the individual who holds the position of Secretary of the School Board of the School District of Kansas City, an urban school district, receive an additional appointment as an assistant to the Superintendent of the District with compensation for the second position to be approximately \$195.00 per month in addition to the salary previously established for the office of Board Secretary?"

You also state that:

"The incumbent Board Secretary of the Kansas City District is being paid a salary of \$19,250 per year established prior to his appointment in February of 1974. The Board has under consideration the possibility of appointing the Secretary as an assistant to the Superintendent to perform such administrative tasks as the Superintendent might require at an additional salary of \$195.00 per month, there being no indication in the Secretary's appointment that his full time is required for the office of Secretary.

..."

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It is also our understanding that the board secretary is not a member of the board.

Section 162.531, RSMo, provides:

"The secretary of the board of each urban district shall keep a record of the proceedings of the board; he shall also keep a record of all warrants drawn upon the treasurer, showing the date and amount of each, in whose favor and upon what account it was drawn, and shall also keep a register of the bonded indebtedness of the school district; he shall also perform other duties required of him by the board, and shall safely keep all bonds or other papers entrusted to his care. He shall, before entering upon his duties, execute a bond to the school district in the penal sum of not less than five thousand dollars, the amount thereof to be fixed by the board, with at least two sureties, to be approved by the board." (Emphasis added).

Section 162.551, RSMo, provides:

"The treasurer and secretary of each urban district shall receive as full compensation for their services salaries fixed by the board before their election; but no compensation shall be paid to either the secretary or treasurer while they are in default in the making, filing or publishing of their reports and settlements, as the law directs." (Emphasis added).

It is our view that the answer to your question depends largely upon whether a new position is to be filled by the secretary or whether the secretary is being assigned additional duties under Section 162.531. If the secretary is required to perform additional duties as secretary under Section 162.531 he could not receive additional compensation because his compensation is to be fixed under Section 162.551 before his election to office and he is required by law to perform other duties required of him by the board in addition to the specific duties set out by statute.

If, on the other hand, the secretary is to fill a distinctly different position in the absence of any requirement that the

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secretary serve full time and in the absence of any conflict or incompatibility of positions or duties, the secretary could be employed in such other capacity. State ex rel. Walker v. Bus, 36 S.W. 636 (Mo. 1896).

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General