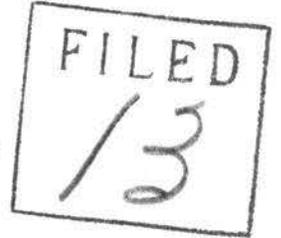


**SALARIES AND FEES:** Board of Probation and Parole should pay the salary of the secretary employed by it and located in the office of the Lieutenant Governor; also pay their proportionate part of the janitor's salary used for it in said office.

January 31, 1945.



Mr. Donald W. Bunker  
Director  
Board of Probation and Parole  
Jefferson City, Missouri

Dear Mr. Bunker:

This Department acknowledges receipt of your letters of January 4th and 16th, requesting an opinion from this office relative to the following questions. Your first question is as follows:

"Does the Board of Probation and Parole have the authority to pay the salary of the secretary to the Lieutenant Governor from the funds of the Board, even though her work may be divided between secretarial duties for the Lieutenant Governor and for the Board of Probation and Parole?"

"In explanation of the reasons for the question I may state that the salary of the secretary to the Lieutenant Governor was paid by the Board of Probation and Parole to January 1, 1945, in view of the fact that the Lieutenant Governor was by statute ex officio member of the Board of Probation and Parole and his salary of \$3,000 was paid from the funds of the Board of Probation and Parole. At the last regular session of the legislature the Lieutenant Governor's salary was fixed at \$7,500 and the same was to be in lieu of all other sums to which he was entitled under existing law. He is still ex officio member of the Board,

but no part of his salary is to be paid from the funds of the Board of Probation and Parole."

Your second question is as follows:

"May the Board of Probation and Parole pay a salary to a janitor for the offices of the Lieutenant Governor who is ex officio member of the Board of Probation and Parole?"

"The Lieutenant Governor's offices are in the State Capitol Building while those of the Board of Probation and Parole are in the Prison Administration Building."

In answer to each of the above questions will state that Section 9161, R. S. Mo. 1939, the title of which is, "Board shall appoint secretary--compensation," provides:

"The Board shall appoint a suitable person as secretary and administrative officer of the Board. It shall also employ such assistants and employees as may be necessary to carry out the provisions of this article. The Board shall fix the compensation of its employees within the limit of moneys appropriated."

It appears that the real question involved, upon the examination of the same, is whether or not the secretary and janitor are employees of the Board of Probation and Parole or are employees of the office of the Lieutenant Governor, or if the change in the way the Lieutenant Governor is paid his salary would affect the hiring of a secretary and janitor by the Board for the Board of Probation and Parole.

As provided in Section 9158, R. S. Mo. 1939, the Lieutenant Governor is ex-officio member of the Board and insofar as these questions are concerned they would apply to him as a member of that Board rather than as the Lieutenant Governor.

Because the Legislature changed the method by which the Lieutenant Governor should be paid his salary, we can see no reason why this should affect the salary or employment of the secretary of the Board who is also an administrative officer of said board.

It necessarily devolves that the secretary is by law an administrative officer of the Board of Probation and Parole, subordinate to the three-member board, and the mere fact that said secretary may be located in the office of the Lieutenant Governor does not necessarily mean that said secretary is being furnished by the Board to the Lieutenant Governor in the capacity of that office, but is being furnished to him as a member of the Board of Probation and Parole.

#### Conclusion

In conclusion, therefore, it is the opinion of this office that it is immaterial as to how the Lieutenant Governor is paid his salary for that office, and the fact that the secretary of the Board of Probation and Parole is located in the same office room does not mean that she is the secretary to the Lieutenant Governor nor that her secretarial services are divided between the secretarial duties for the Lieutenant Governor and for the Board of Probation and Parole, her duties and work being limited to secretarial services for the Board of Probation and Parole. Therefore, said secretary should continue to receive her salary from the Board of Probation and Parole from the fund appropriated to said board.

The same rule should also apply to the janitor, as the Board of Probation and Parole is only paying its proportionate part of his salary for his services rendered to the Board in taking care of its office located in the office of the Lieutenant Governor.

Respectfully submitted,

GORDON P. WEIR  
Assistant Attorney General

APPROVED.

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HARRY H. KAY  
(Acting) Attorney General