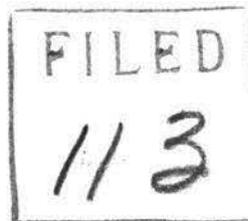


COMPENSATION: Limitation on the amount a clerk of a
COUNTY CLERK: third class county may pay for deputy
DEPUTY CLERK: hire in Section 51.450 RSMo does not
DEPUTY REGISTRATION CLERK: apply to limit the amount he may pay
REGISTRATION OFFICER: a deputy registration clerk appointed
SALARY: under Section 116.030 RSMo. Such
deputy registration clerk may be
assigned duties in the nature of those
ordinarily performed by a deputy clerk.

OPINION NO. 113

July 7, 1964

Honorable Frank Conley
Prosecuting Attorney
Boone County
Columbia, Missouri



Dear Mr. Conley:

Your request for an opinion of this office has reference to the appointment of a deputy registration clerk by the county clerk of a third class county under authority of Section 116.030 RSMo.

Your first question concerning such appointment may be restated as follows:

1. Does the limitation on the amount a clerk of a third class county may pay for deputy hire in Section 51.450, RSMo., apply to limit the amount he may pay a deputy registration clerk appointed under Section 116.030 RSMo?

It is observed that the maximum amount the County Clerk of Boone County may pay for deputy hire under Section 51.450 RSMo is Six Thousand Dollars (\$6,000.00) annually, which is computed as follows:

Section 51.450, RSMo: "1. The clerk of the county court in each county of the third class is entitled to employ deputies and assistants, and for the deputies and assistants, is allowed the following sums:

* * * * *

(6) In counties having a population of thirty thousand or more, the sum of one hundred and twenty-five per cent of the salary of the county clerk; but the total allowance for deputies and assistants shall in no case exceed the sum of four thousand dollars annually. [The four thousand dollar limit applies in Boone County.]

"2. The county court in all counties of the third class may allow the county clerk, in

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addition to the amount herein specified for deputies or assistants' hire, a further sum not to exceed one thousand dollars per annum, to be used solely for clerical hire or allowed and paid, in whole or in part, as additional compensation to any regular deputy or assistant to be determined by the county court of the county; but the county court shall determine that the work required to be done by the clerks demands or requires the extra remuneration.

"3. In addition to salaries fixed by this section the deputy county clerk shall receive one thousand dollars a year payable out of the county treasury."

Thus, Section 51.450 RSMo authorizes the county clerk to employ deputies and to pay them a total of not to exceed Six Thousand Dollars (\$6,000.00), which may be divided among the deputies as he sees fit.

Chapter 116, RSMo, imposes on the county clerk the duty of registration officer in counties not having voter registration containing a city of 10,000 inhabitants. This applies to Boone County.

Section 116.030 RSMo refers to the appointment of deputies, providing in pertinent part:

" . . . The said county clerk and his deputies shall have the power to administer oaths and perform all other duties necessary to carry out the provisions of this chapter. The county clerk may appoint not more than two additional deputies who shall be in addition to those regularly employed in his office, to perform such necessary duties and other duties as may be assigned to them by the county clerk, and whose salaries shall be fixed by the county court. Before they shall enter upon their duties, the county clerk shall submit the names of the one or more deputies to the judges of the circuit court sitting in any such county, who shall approve the appointment of any such deputies before they shall enter upon the performance of their duties. . . ."

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Inasmuch as the statute authorizes the clerk to appoint "additional deputies" and "who shall be in addition to those regularly employed", it is clear that such deputies are not the same creatures as the deputies employed under Section 51.450 RSMo but rather such deputies employed under Section 51.450 RSMo are the "regularly employed" deputies referred to in Section 116.030 RSMo, supra.

It, therefore, follows that the limitations imposed by Section 51.450 RSMo on the amount to be spent for deputy hire does not apply to the "additional deputies" appointed by the county clerk under Section 116.030 RSMo. The salaries of such "additional deputies" are provided in Section 116.030 RSMo, which are to be fixed by the county court.

Your second question may be restated as follows:

2. Could such deputy registration clerk be assigned duties in the nature of those ordinarily performed by a deputy clerk?

The "additional deputies" under Section 116.030 RSMo are "to perform such necessary duties. . . ." "Such necessary duties" obviously refers to the preceding sentence wherein the powers and duties of the clerk and his deputies are set out as follows: ". . . the power to administer oaths and perform all other duties necessary to carry out the provisions of this chapter." Therefore, the additional registration deputy is given the power to administer oaths and perform all other duties necessary to carry out the provisions of Chapter 116, RSMo.

In addition to performing necessary duties, additional registration deputies are "to perform such . . . other duties as may be assigned to them by the county clerk."

"Other duties as may be assigned to them by the clerk", given its natural meaning means that the additional registration deputy may be given duties to perform other than those necessary to carry out the provisions of Chapter 116, RSMo.

Since there are no specific statutory qualifications required or duties imposed upon regularly employed deputies provided for in Section 51.450 RSMo, the "additional deputies" provided for in Section 116.030 RSMo may perform duties ordinarily performed by the regularly employed deputy clerk.

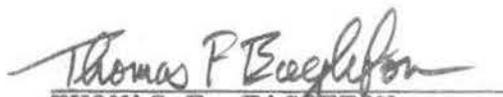
Honorable Frank Conley

CONCLUSION

Therefore, it is the opinion of this office that the limitation on the amount a clerk of a third class county may pay for deputy hire in Section 51.450 RSMo does not apply to limit the amount he may pay a deputy registration clerk appointed under Section 116.030 RSMo. Such deputy registration clerk may be assigned duties in the nature of those ordinarily performed by a deputy clerk.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Jeremiah D. Finnegan.

Yours very truly,


THOMAS F. EAGLETON
Attorney General