

OPINION NO. 73-066

Syllabus:

An official common pleas court reporter, whose presence was requested by the board of county commissioners, is entitled to additional compensation for recording the minutes of a sewer assessment hearing held by the board of county commissioners in the common pleas courtroom.

To: Thomas R. Spellerberg, Seneca County Pros. Atty., Tiffin, Ohio
By: William J. Brown, Attorney General, July 5, 1973

I have before me your request for my opinion which may be stated as follows:

Is the official common pleas court reporter, whose presence was requested by the board of county commissioners, entitled to additional compensation for recording the minutes of a sewer assessment hearing held by the board of county commissioners in the common pleas court room.

The Revised Code (R.C. 2301.18) authorizes the appointment of a stenographic reporter as the official reporter for the court of common pleas. Compensation is provided under R.C. 2301.22 which states that "each shorthand reporter shall receive such compensation as the court of common pleas making the appointment

fixes." These Sections indicate that an official reporter is compensated by fixed salary solely for those duties performed under direction of the court of common pleas, and they do not preclude the payment of additional compensation for work performed by the reporter outside his duties in the common pleas court.

The jurisdiction of the court of common pleas is defined by R.C. 2305.01 as follows:

The court of common pleas has original jurisdiction in all civil cases where the subject matter in dispute exceeds the exclusive original jurisdiction of county courts; and appellate jurisdiction from the decisions of boards of county commissioners, county courts, and other inferior courts in the proper county, in all civil cases, subject to regulations provided by law.

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Clearly, a sewer assessment hearing held by a board of county commissioners does not fall within the jurisdiction of the court of common pleas. Rather, such hearings are the domain of the board of county commissioners which is vested with exclusive and original jurisdiction over all matters pertaining to county affairs, except such as are specifically granted to another officer or person. Corder v. Commissioners, 16 Ohio St. 353, 368-370 (1865); Shanklin v. Commissioners, 21 Ohio St. 575, 583 (1871); State v. Allen, 86 Ohio St. 244, 250-251 (1912); Dall v. Cuyahoga County Bldg. Comm'n, 14 Ohio N.P. (n.s.) 209 (1913). The utilization of a court reporter at a sewer assessment hearing is therefore not done in the course of the reporter's official capacity with the court of common pleas.

It should be noted that R.C. 319.08 provides that the county auditor shall serve as the secretary of the board of county commissioners and shall keep a record of the board's proceedings. In lieu of the county auditor, a permanent clerk may be appointed pursuant to R.C. 305.13 to serve as secretary of the board of county commissioners. These Sections do not authorize the use of an official common pleas court reporter, but rather place the burden of maintaining records upon the board of county commissioners itself.

It is clear that additional duties assumed by an official common pleas court reporter merit additional compensation. For instance, R.C. 2301.24 authorizes additional compensation for the preparation of transcripts and copies of common pleas court proceedings, and R.C. 2301.25 requires additional compensation for preparing transcripts of testimony given before a grand jury. There is nothing to indicate that these Sections were intended to be the exclusive instances in which an official court reporter may receive additional compensation for work outside the scope of his duties. Therefore, since it is not within the duties of a court reporter to record the minutes of hearings held by the board of county commissioners, it is my opinion that an official reporter of a common pleas court is entitled to additional compensation while serving as a reporter for a board of county commissioners. See Opinion No. 1571, Opinions of the Attorney General for 1933, and Opinion No. 3823, Opinions of the Attorney General for 1935.

In specific answer to your question, it is my opinion, and you are so advised, that an official common pleas court reporter, whose presence was requested by the board of county commissioners, is entitled to additional compensation for recording the minutes of a sewer assessment hearing held by the board of county commissioners in the common pleas courtroom.