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TOWNSHIP CLERK — COMPENSATION; CALCULATION,  
§507.09 R.C.—ADDITIONAL COMPENSATION IS EXPENSE OF  
TOWNSHIP.

SYLLABUS:

Where the board of township trustees has fixed the salary of the clerk of such township at a particular dollar amount as provided in division (B) of Section 507.09, Revised Code, and where such township has a budget in excess of five thousand dollars annually, such clerk is entitled to an additional compensation as provided in division (C) of such section, of two per cent of the total annual expenditures of such township, in addition to such salary; and in computing such annual expenditures the salary paid such clerk as provided in division (B) of such section should be included therein.

Columbus, Ohio, February 26, 1959

Hon. G. William Brokaw, Prosecuting Attorney  
Columbiana County, Lisbon, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Part of the township clerk’s compensation is set in Revised Code Section 507.09, wherein, Paragraph B provides that the

Board of Township Trustees 'shall determine the salary of the Clerk, which, in no event shall exceed \$500.00 per year. Then Paragraph C provides for an additional compensation of two per cent (2%) of the total expenditures of such townships in excess of \$5000.00.

"May a township clerk in computing his two per cent (2%) be paid two per cent (2%) of the salary as fixed by the board under Paragraph B of Revised Code Section 507.09?"

"The question involved is whether the salary as set by the township trustees for the clerk is considered an expenditure under Paragraph C wherein he is allowed two per cent (2%) of all expenditures in excess of \$5000.00?"

Section 507.09, Revised Code, to which you refer, provides in pertinent part:

"(B) In those townships having a budget less than five thousand dollars, the board shall determine the salary of the clerk, which, in no event shall exceed five hundred dollars per year;

"(C) In townships having a budget of five thousand dollars or over, the clerk shall receive two percent of the total expenditures of such township in excess of five thousand dollars in addition to the amount provided under division (B) of this section.

"No township clerk shall receive compensation in excess of twenty-four hundred dollars in any one calendar year for said services as such clerk."

My immediate predecessor in Opinion No. 2470, Opinions of the Attorney General for 1958, p. 456, while considering a problem similar to the one presented here, stated in the course of his opinion:

"The words 'having a budget of \$5000.00 or more,' as used in paragraph (C) of Section 507.09, Revised Code, \* \* \* certainly requires no explanation or interpretation. As a matter of common knowledge and by general definition 'budget' is an advance estimate of expected income and total expenses of a business or, as in this case, of a public subdivision, for a stated period; and when we consider that townships along with all other subdivisions, are required to prepare an annual budget for the purpose of enabling the taxing authorities to determine the precise rate of taxation which shall be levied for the ensuing year, it becomes evident that this annual budget, in order to be complete, and in order to be informative as to the precise tax levy that must be made, must include an estimate of the entire gross income and the entire expense of the subdivision, \* \* \*"

Section 5705.29, Revised Code, relates to the contents of the budget. This section provides for a statement of the necessary current operating expenses of the different departments, classified as to personal services and other expenses. Clearly, the salaries of the personnel, such personnel including the township clerk, would be included as personal services within the meaning of such section and would be contained in the budget.

Accordingly, the salary provided for the clerk would be included as a part of the budget in so far as determining whether only division (B) of Section 507.09, *supra*, would apply or whether division (C) of this section is also applicable. That is to say that if the budget of the township were forty-seven hundred dollars annually, not including the clerk's salary, and this salary were five hundred dollars, the clerk's salary would be fixed as provided in division (C) of Section 507.09, *supra*, because the township budget would in such case exceed five thousand dollars.

Accordingly, it is my opinion that where the board of township trustees has fixed the salary of the clerk of such township at a particular dollar amount as provided in division (B) of Section 507.09, Revised Code, and where such township has a budget in excess of five thousand dollars annually, such clerk is entitled to an additional compensation as provided in division (C) of such section, of two per cent of the total annual expenditures of such township, in addition to such salary; and in computing such annual expenditures the salary paid such clerk as provided in division (B) of such section should be included therein.

Respectfully,  
MARK McELROY  
Attorney General