

1923.

SALARY OR COMPENSATION—DEPUTY AND CLERK HIRE—
COUNTY OFFICIAL, UNDER SECTION 5625-38 G. C., MAY
DURING FIRST SIX MONTHS OF ANY YEAR EXPEND FOR
SUCH HIRE SIX TENTHS OF ANNUAL APPROPRIATION
MADE TO HIS OFFICE FOR SUCH PURPOSE.

SYLLABUS:

A county official, under the provisions of section 5625-38, General Code, may, during the first six months of any year, expend for deputy and clerk hire six-tenths of the annual appropriation made to his office for such purpose.

Columbus, Ohio, February 27, 1940.

Hon. Charles S. Keeney, Prosecuting Attorney,
McArthur, Ohio.

Dear Sir:

This will acknowledge receipt of your recent communication, which reads as follows:

“Will you please favor me with your opinion concerning the power of an elected officer to set the salary of his deputies and advise what portion of the appropriation made therefor by the Board of County Commissioners may be paid out or drawn from the county treasury at any time during the first six months of the fiscal year for which the appropriation has been made. The county auditor is under the impression that not more than one-twelfth of said appropriation may be drawn at any one time, and the clerk of courts feels that the statutes contemplate the withdrawal of an amount up to six-tenths of said appropriation at any time during the first six months of any fiscal year for which the annual appropriation has been made.”

Under the provisions of section 2891, General Code, county officials are authorized to appoint and employ the necessary deputies, assistants, clerks, bookkeepers and other employes for their respective offices and fix their compensation, which compensation shall not exceed in the aggregate for each office the amount fixed by the county commissioners for such office.

In an opinion rendered by the then Attorney General in 1929 (Opinions of the Attorney General for 1929, Vol. III, p 1808) it was held:

“When the salaries of clerks and deputies in the several county offices have been determined in the manner provided in Section 2981, General Code, the same should be paid monthly from the county treasury, in so far as money has been appropriated therefor and within the limitations imposed by Section 5625-38, General Code.”

Section 5625-38, General Code, reads as follows:

“Each political subdivision shall have authority to make expenditures for the payment of current pay rolls upon the authority of a proper appropriation for such purpose provided that the positions of such employees and their compensation have been determined prior thereto by resolution or ordinance or in the manner provided by law. The total expenditures for such purpose during the first half of any fiscal year shall not exceed six-tenths of the appropriation therefor unless the taxing authority of such subdivision by a three-fourths vote of all members thereof waives such limitations, and in the resolution waiving such limitation there shall be set forth their reason therefor.”

A reading of the above section makes it at once apparent that the provisions thereof are dispositive of your question. Under the plain, unmistakable language contained therein, six-tenths of the annual appropriation made to his office for deputy hire may be expended by an elected county official for such purpose, during the first six months of the year.

You are therefore advised that in my opinion a county official, under the provisions of section 5625-38, General Code, may, during the first six months of any year, expend for deputy and clerk hire six-tenths of the annual appropriation made to his office for such purpose.

Respectfully,

THOMAS J. HERBERT,
Attorney General.