

Opinion No. 347.

Offices and Officers—County Health
Officer—Fees, Local Registrars
of Birth and Deaths.

HELD: A county health officer paid an annual salary is not entitled to fees for registering births and deaths.

November 2, 1938.

Mr. Phil G. Greenan
County Attorney
Great Falls, Montana

Dear Sir:

You have asked if a county health officer employed on a full time salary is entitled to the fees for registering births and deaths prescribed by Section 2537, Revised Codes of Montana, 1935.

Section 2537 provides:

“Each local registrar or subregistrar shall be entitled to be paid the sum of twenty-five cents for each birth and each death certificate completely and properly made out and

filed with him, to be paid by the treasurer of the county upon certification by the state registrar * * *

Local registrars are defined by Section 2517, R. C. M. 1935, as the health officers of each city or town. A county health officer has the same powers and is obligated to perform the same duties as the local health officer within the limits of an incorporated town. (Section 2473, R. C. M. 1935.)

Statutes in respect to fees must be strictly construed in favor of the government and public officers are entitled only to what is clearly given them by law. (46 C. J. 1019, Sec. 250.) In this state the executive officers of the state are paid a salary and are forbidden by the Constitution from receiving any fee for the performance of their official duties. (Article VII, Sec. 4, Mont. Constitution.) Besides the rule of strict construction, *supra*, it is the rule that all acts relating to public offices must be read in *pari materia* with other statutes providing for compensation and fees (*Lavin v. Board of Commissioners*, 151 Ill. App. 236, 92 N. E. 291), and the presumption is, that where an officer receives a salary for services rendered in his official capacity it is as compensation for all the duties of the office and fees are not to be paid to him in his official capacity as an additional compensation. (46 C. J. 1018, Sec. 244.)

Then it is my opinion that the annual salary of a county health officer is to be the sole compensation for the performance of the duties of his office and he is not entitled to fees for registering births and deaths in addition to his annual salary.