



**MEC
OPINION NO.**

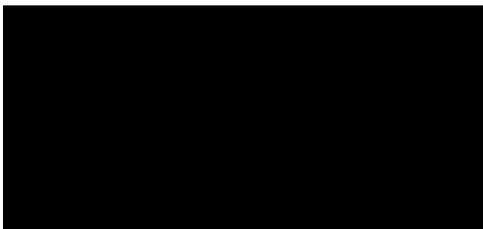
2008.06.CI.004

STATE OF MISSOURI

MISSOURI ETHICS COMMISSION
P. O. BOX 1254
JEFFERSON CITY, MISSOURI 65102

573/751-2020
1-800/392-8660

April 18, 2008



Re: Opinion No. 2008.06.CI.004



At the June 5, 2008 meeting of the Missouri Ethics Commission, your request for an opinion was discussed. The following is the Commission's Response to your questions:

Can the Mayor or Council member of a third class city serve as a member of the volunteer fire department receiving reimbursement of expenses at the rate of \$12.00 per call if they turn down the compensation or reimbursement for services as a Council member in the amount of \$50.00 per month. Does the refusal of the compensation provided as an office holder eliminate the conflict of interest in Section 104.458.1(1) RSMo?

As the Mayor or Council member of the political subdivision, under the Section 105.458.1 RSMo, you may not receive reimbursement of services for volunteer services to the political subdivision. The statute prohibits the performance of any service for such political subdivision or any agency of the political subdivision for any consideration other than the compensation provided for the performance of official duties, except as otherwise provided in the statute.

The Commission directs you to Opinions No. 2001.01.100 and 1998.05.108 which state that while a public official falling within Section 105.458.1 RSMo may serve as a volunteer in the political subdivision, the individual cannot receive any payment from the political subdivision for those volunteer services, including stipends and/or any other type of compensation.

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Compensation of a public officer is matter of statute, not contract, and does not depend on the amount or value of services performed, but is incidental to office." See Coleman v. Kansas City, 173 S.W.2d 572 (Mo. 1943); State ex rel. Harvey v. Gilbert, 163 Mo.App. 679, 147 S.W. 505 (Mo.App. 1912). "[T]o permit public officers, elected or appointed, to receive, by agreement or otherwise, a less compensation for their services than fixed by law, would be contrary to the public policy of the state." Reed v. Jackson County, 142 S.W. 2d 862 (Mo. 1940).

Sincerely,



Stacey Heislen
Interim Executive Director

SH: ss

NOTICE

Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.
