

Does the selectboard have the authority to give the clerk a mid-term raise – in other words, exceed the amount approved by the voters without voter approval?

In our opinion, the actual salary paid out should not exceed the amount appropriated by the voters. However, since there is no express law in Vermont against deficit spending, only the courts can answer this question for sure. The downside to paying out more than is appropriated is that any deficit at the end of the year must be made up the following year. 24 V.S.A. §1523.

The law also provides that it is the *voters* who decide whether the clerk's salary will be in addition to, or in lieu of, any recording or miscellaneous fees allowed by statute. If the salary is in lieu of fees, the fees are still collected by the clerk but are turned over to the town treasurer at least quarterly and credited to the town's general fund. 32 V.S.A. §1224. A listing of statutory fees is found in the VLCT "Town Clerk Fees" poster, which is available at a cost of \$2.00 for members, \$4.00 for non-members.

There may be some confusion about this whole issue due to other statutory provisions regarding the compensation of town officers. General municipal law says that the "town 'may' vote to compensate any or all town officers for their official services..." 24 V.S.A. §932. But, if the town (i.e. the voters) does not fix the compensation to be paid to town officers and town employees, the selectboard is required to do so (except for their own compensation which is set by the auditors at the time of the annual town audit). 24 V.S.A. §933. However, as regards municipal clerks, the specific provision in 32 V.S.A. §1224 takes precedence over general law, and therefore the selectboard does not have the legal authority to adjust the salary approved by the voters, even if it is the board that established that figure.

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