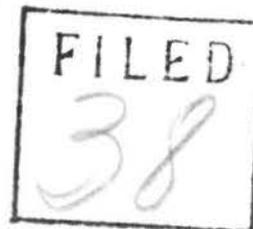


COUNTY TREASURER: SALARY: BOND: Compensation to be allowed him and separate bond required of him as custodian and disburser of moneys of (1) schools; (2) Levee Districts under county court organization; and (3) Drainage Districts under county court organization.

September 23, 1937.

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Mr. E. B. Hearnest
County Clerk
Mississippi County Court
Charleston, Missouri

Dear Sir:

We wish to acknowledge receipt of your letter of September 20th, wherein you request an opinion as follows:

"Since the County Treasurer's office has been reestablished please give us ruling on the following:

"Is the Bond for the Treasurer the same as before, \$20,000.00 for County, \$20,000.00 for Schools, \$20,000 for Ditches and \$20,000.00 for Levees-- total \$80,000.00? According to the 1937 Statute (Sec. 12133, page 426) the Bond is not to be less than \$20,000.00 to be fixed by the County Court. Does that mean just one Bond of \$20,000.00 is required for all funds?

"Is Treasurer still allowed commission as follows:

$\frac{1}{2}$ % of 1% on School Expenditures
 $\frac{1}{2}$ % of 1% on Levee
1% on Ditch "

I.

Under House Bill 20, Section 12130, Session Acts, 1937, at page 425, the office of county treasurer is created in counties of less than 40,000 inhabitants, which said statute is as follows:

"There is hereby created in the several counties of this State, now or hereafter having a population of less than 40,000 inhabitants according to the last Decennial United States Census, a county treasurer, to be appointed by the Governor, and to take office immediately after the effective date of this Act and who shall enter upon the discharge of the duties of his office after his said appointment and qualification and who shall hold his office for a term ending on the first day of January, 1939, and until his successor is elected and qualified, unless sooner removed from office. Provided, that nothing in this section shall apply to counties under township organization."

The bond that a treasurer is required to execute and the amount thereof, is provided in Section 12133 of said House Bill 20, at page 426, which is as follows:

"The person elected or appointed county treasurer under the provisions of this article shall, within ten days after his election or appointment as such, enter into bond to the county in a sum not less than twenty thousand dollars, to be fixed by the county court, and with such sureties, resident landholders of the county, as shall be approved by such court, conditioned for the faithful performance of the duties of his office."

The county treasurer's compensation, as treasurer of the county, is provided for in Section 12138 of said House Bill 20, at page 427, which is as follows:

"Unless otherwise provided by law, the County Court shall allow the treasurer for his services under this article such compensation as may be deemed just and reasonable, and cause warrants to be drawn therefor."

Conclusion.

House Bill 20 of the 1937 Session Acts, repealed Senate Bill 76 of the 1933 Session Acts, reestablished the office of county treasurer and provided for his bond and compensation in Sections 12133 and 12138 thereof, which are verbatim with sections of the same number in Article 8, Chapter 85 of the 1929 Statutes, which were repealed by Senate Bill 76 of the 1933 Session Acts, and so, under House Bill 20, 1937 Session Acts, as in Article 8, Chapter 85 of the 1929 Statutes, the county treasurer must enter into a bond to the county in a sum not less than \$20,000.00 to be fixed by the county court, and approved by it, and which said court shall allow said treasurer for his services under this article such compensation as may be deemed just and reasonable. Such bond and compensation comprehend his acts as county treasurer.

The county treasurer is also, by statutes, made treasurer of the schools, levee districts under county court organization, and drainage districts under county court organization, with powers and duties as follows:

II.

There was an opinion written by this Department to Honorable Otto G. Schell, Treasurer of Miller County, on February 26, 1935, which shows the amount to be received by the county treasurer for fees from school moneys for his services as custodian and disbursing officer of such moneys, as provided in Section 9266, Revised Statutes of Missouri, 1929, a copy of which said opinion is enclosed herewith.

The bond for a county treasurer as custodian of school moneys is provided in the same section, to-wit, 9266, supra, which said section is as follows:

"The county treasurer in each county shall be the custodian of all moneys for school purposes belonging to the different districts, until paid out on warrants duly issued by order of the board of directors or to the treasurer of some town, city or consolidated school district, as authorized by this chapter, except in counties having adopted the township organization law, in which

counties the township trustee shall be the custodian of all school moneys belonging to the township, and be subject to corresponding duties as the county treasurer; and said treasurer shall pay all orders heretofore legally drawn on township clerks, and not paid by such township clerks, out of the proper funds belonging to the various districts; and on his election, before entering upon the duties of his office, he shall give a separate bond, with sufficient security, in double the probable amount of school moneys that shall come into his hands, payable to the state of Missouri, to be approved by the county court, conditioned for the faithful disbursement, according to law, of all such moneys as shall from time to time come into his hands; and on the forfeiture of such bond it shall be the duty of the county clerk to collect the same for the use of the schools in the various districts. If such county clerk shall neglect or refuse to prosecute, then any freeholder may cause prosecution to be instituted. It shall be the duty of the county court in no case to permit the county treasurer to have in his possession, at any one time, an amount of school moneys over one-half the amount of the security available in the bond; and the county treasurer shall be allowed such compensation for his services as the county court may deem advisable, not to exceed one-half of one per cent. of all school moneys disbursed by him, and to be paid out of the county treasury."

Conclusion.

Therefore, it is the opinion of this Department that the county treasurer, except in counties having adopted the township organization law, shall be allowed such compensation for his services, as custodian of school moneys, as the county court may deem advisable, not to exceed one-half of one per cent

of all school moneys disbursed by him, and to be paid out of the county treasury.

It is further the opinion of this Department that, before entering upon his duties as such custodian, the county treasurer shall give a separate bond, with sufficient security, in double the probable amount of school moneys that shall come into his hands, payable to the State of Missouri, to be approved by the county court, conditioned for the faithful disbursement, according to law, of all such moneys as shall from time to time come into his hands.

III.

The bond for a county treasurer of a levee district, organized under the county court, and the compensation he shall be allowed as such treasurer, are set out in Section 10969, R. S. Mo. 1929, which said section is as follows:

"The county treasurer of the county in which the greater part of any organized levee district lies shall be the treasurer of the levee fund of the district, until paid out upon the warrants issued by order of the board of directors of the levee district. Before receiving any funds belonging to the levee district, the treasurer shall give a separate bond, with sufficient security, in double the probable amount of the levee fund that shall come into his hands, payable to the state of Missouri, to be approved by the board of directors, conditioned for the faithful disbursement, according to law, of all such moneys as shall, from time to time, come into his hands to the credit of the levee fund of the levee district of which the county of which he is treasurer is part; and such bond shall be filed in the office of the clerk of the county court of the county in which said treasurer is appointed or elected. On the forfeiture of such bond, it shall be the duty of the clerk of the county court in whose office said bond is filed to collect the same for the use of the

levee district. If such clerk shall neglect or refuse to prosecute, any freeholder of the district may cause prosecution to be instituted. It shall be the duty of the board of directors in no case to permit the county treasurer having the custody of the levee funds of the district to have in his possession at any one time an amount of levee funds over one-half the amount of the security available in the bond. Such treasurer shall be allowed such compensation for his services as the board of directors deem advisable, not to exceed one-half of one per cent. of all levee funds disbursed by him, and to be paid out of the levee funds."

Conclusion.

Therefore, it is the opinion of this Department that before receiving any funds of such levee district the county treasurer shall give a separate bond to the State of Missouri to be approved by the board of directors, in double the probable amount of levee funds that shall come into his hands, and that for his services he shall be allowed such compensation as said board may deem advisable, not to exceed one-half of one per cent of all levee funds disbursed by him, and said compensation is to be paid out of the levee fund.

IV.

The bond of a county treasurer of a drainage district organized under and by virtue of the county court, as custodian of the funds of the district, is set out in Section 10832, 1929 Revised Statutes of Missouri, which said section is as follows:

"The treasurer of the county in which a drainage district is located shall act as treasurer of the district and shall be the custodian of the funds of the district, except as otherwise provided in this article. He shall receive and receipt for all such funds and shall enter into a separate bond for each district in the county in a sum to be

fixed by the court, not less than the probable amount of funds of said district to be in his possession at any one time. Such bond shall be payable to the district, shall be approved by the court, shall be signed by two or more resident freeholders in the county or by a surety company authorized to transact business in the state and shall be conditioned for the faithful and prompt disbursement according to law of all such funds as shall from time to time be in his possession. The premium on such bond may be paid by the district. Except as otherwise provided in this article, the treasurer shall keep all district funds received by him deposited in a bank or banks selected in the same manner and at the same time that the depository for county funds is selected. All interest accruing on district funds shall be credited to the district and any premium on a surety bond may be paid by the district."

The compensation of a county treasurer as treasurer of a drainage district, organized under and by virtue of the county court, for receiving, receipting for, preserving and paying out its funds, is set out in Section 10881, 1929 Revised Statutes of Missouri, which said section is as follows:

"County treasurers for receiving, receipting for, preserving and paying out funds of drainage and levee districts, shall receive one per cent. of sums paid out."

Conclusion.

Therefore, it is the opinion of this Department that the county treasurer, as treasurer of the drainage district organized under and by virtue of the county court, shall enter into a separate bond for each district in the county in a sum to be fixed by the court not less than the probable amount of

Mr. E. B. Hearnes

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the funds of said district to be in his possession at one time, which said bond shall be payable to the district and shall be approved by the county court, and that said county treasurer shall receive as compensation as treasurer for the district one per cent of sums paid out.

Very truly yours,

S. V. MEDLING
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General

SVM:EG