

SCHOOL: Treasurers of city, town or village districts not entitled to compensation until annual reports have been filed.

3/25  
March 22nd, 1939.

Honorable Lloyd W. King,  
Superintendent,  
Department of Public Schools,  
Jefferson City, Missouri.



Dear Mr. King:

We are in receipt of your inquiry of recent date which reads as follows:

"Inquiry has come to this department from the school board of University City concerning the proper method of paying the school board treasurer for his services, both for the ordinary duties and the special duties in the payment of bonds and interest.

"Section 9360, R. S. 1929, provides that the treasurer shall not be paid in excess of \$50 for his regular services. Section 9329 provides that such compensation shall not be granted until his annual report has been approved and filed with the board.

"The special duties of the treasurer are set out in Section 9336, R. S. 1929. This law makes the treasurer custodian of all money collected for liquidating any bonded indebtedness and interest on same; - - also, makes him responsible for the payment of such bonds and interest that may become due. As special compensation for such services, he

shall be paid not to exceed one per cent on the amount by him paid out in the redemption of bonds and payment of interest on same. There seems to be nothing in this law which would prohibit the board from paying the treasurer for the special services required in Section 9336 at the time bonds are redeemed and interest paid.

"The school board of University City desires to know whether or not it has the legal authority to pay its treasurer for his special services in liquidating bonded indebtedness and the payment of interest immediately after such services have been performed, or wait until the close of the year and pay the special fee at the time the \$50 is paid for his regular services."

From the memorandum submitted with your inquiry we assume that there is some contention that Section 9336, R. S. Mo. 1929, does not really belong in Article 4 of Chapter 57 of the statutes. We have, therefore, traced the history of this section of the statutes. We find that at page 37, Laws of 1877, an act was passed applicable to all schools and contained a provision similar to Section 9336 of the present statutes. This act authorized school boards to issue renewal funding bonds to be sold or exchanged for the purpose of meeting and paying matured or maturing bonded indebtedness, and to levy a special tax to pay the bond indebtedness of the districts. The act provided that the money raised by the special levy therein authorized should constitute a sinking fund, and it provided that if the outstanding bonds could not be obtained, the sinking fund could be invested in certain designated securities until the outstanding bonds could be obtained. The act provided that

a treasurer of the district should receive for his services in safe keeping the sinking fund and investing and handling the same not to exceed one per cent on the amount. This act carried an emergency clause reciting that there were no provisions then existing to authorize issuance of renewal bonds or the levying of a special tax for redemption of outstanding bonds. This act appears in the Revised Statutes of 1879 as Section 7039, but does not appear in the revisions thereafter.

However, at page 249, Laws of 1889, appears an act entitled: "An Act to revise and amend Article 2, Chapter 150, of the Revised Statutes of Missouri of 1879, entitled 'of city, town and village schools; and all acts amendatory thereof'". At page 252, of said Laws, appears Section 7149a as a part of said act, which section is marked as a new section. Said section reads as follows:

"The treasurer of the board shall be the custodian of all moneys collected for liquidating any bonded indebtedness and interest on the same, and shall be responsible on his official bond for the safe keeping and proper appliance of such sinking fund and interest as may be by him received, and also for any loss incurred or damage resulting from his failure to burn any and all redeemed bonds, as required in section 7036; he shall promptly pay the interest on bonds when due, and pay off, cancel and burn the bonds as rapidly as possible; and he shall receive as full compensation for his services under this section, one-half of one per cent on amount by him paid out in the redemption of bonds and payment of interest on same.

Article 2, Chapter 150, R. S. 1879, dealt with city, town and village schools and contained Section 7149, which dealt with the office of treasurer. It would seem clear, therefore, that when the foregoing section 7149a was passed, the Legislature had in mind the office of treasurer of city, town and village school districts. The later section does not purport to be the same section as Section 6, page 39, Laws of 1877, heretofore referred to. The Act of 1877 referred to all schools irrespective of classification.

When, therefore, in 1889, the Legislature passed Section 7149a, there was no longer any need for that part of the Act of 1877 referring to the same subject matter, since there were no treasurers of school districts other than treasurers of the districts covered by the Act of 1889. This perhaps explains why Section 6 of the Act of 1877 was not carried forward in the revision of 1889.

Section 7149a was carried forward in the various revisions until in 1909 it was repealed along with Article 2, Chapter 154, R. S. 1899, and in its place a new section was adopted. The Act of 1909 has been carried down in the revision and is now Section 9336, R. S. Mo. 1929. In view of the fact that this later section has been definitely enacted along with other laws affecting schools and under the titles of bills which pertain to schools, we must conclude that the Legislature intended these statutes to apply to the particular school set forth in Article 4, Chapter 57, of the present statutes.

Section ~~9336~~<sup>9327</sup>, R. S. 1929, as amended by Laws of 1931, page 333, provides:

"No compensation shall be granted to either the secretary or the treasurer until his report and settlement shall have been made and filed or published as the law directs."

This same provision has been in the statutes for many years. The words "No compensation" would seem to be all inclusive

Under Section 9336 the treasurer shall:

"receive as full compensation for his services under this section not to exceed one per cent on amount by him paid out in the redemption of bonds and payment of interest on same."

The remuneration under this section is distinctly referred to as compensation, and we see no reason why the payment of his compensation under this section is not covered by the restriction in Section 9329, supra.

Section 9338 of the present statutes requires the treasurer of city, town and consolidated school districts to settle annually with the Board of Education, and account to said Board for all school moneys or funds received, from whom and on what account, and the amount paid out for school purposes in such districts. If the said settlement is approved by the Board, it is then filed with the County Clerk, who shall likewise examine the same, and if said county official finds the settlement correct he shall certify the same, which certification shall be prima facie a discharge of the liability of the treasurer for the funds expressed in the vouchers.

Section 9338, supra, could well have a two-fold purpose: (1) to make sure that the treasurer filed his settlement as the law required; and (2) to make sure that the treasurer did not receive any compensation until it was definitely determined that he himself was not indebted to the district. Until the treasurer filed this annual settlement the Board could not know just how he

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stood with his accounts, and, therefore, the Legislature has forbidden them to pay the treasurer any compensation until they have determined that the treasurer does not owe the district anything.

CONCLUSION.

It is, therefore, the opinion of this department that the treasurer of city, town or village school district is not entitled to compensation under Section 9336, R. S. 1929, until he has filed his report and settlement as required by law.

Yours very truly,

HARRY H. KAY,  
Assistant Attorney General.

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General.

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