

SPECIAL ROAD DISTRICT:  
OFFICERS:

Unless the statutes prescribe a salary for the treasurer of a special road district, his services are deemed to be gratuitous.

November 17, 1944

11/20

Honorable E. W. Bennett  
Prosecuting Attorney  
Dent County  
Salem, Missouri

FILE  
7

Dear Mr. Bennett:

This department acknowledges receipt of your recent letter in which you request the opinion of this office on certain questions. Your letter reads as follows:

"The County Court of Dent County, Missouri desires the opinion of your office on the authority of Special Road Commissioners appointed under chapter 46, article 10, Revised Statutes of Missouri 1939. On the following points, to-wit:

- "1. In the appointment of a treasurer for the Special Road District does the commissioners have any authority to pay said treasurer a salary?
- "2. Do said commissioners have authority to appoint one of their number as treasurer and pay such commissioner as treasurer a salary.
- "3. Does said commissioners have authority to pay one of the commissioners for labor done for and material furnished to the Special Road District, other than actual expenses of said commissioners in the performance of their duties.

Section 8679, R. S. Mo. 1939, provides as follows:

"Said board may appoint a treasurer and fix the amount of his bond and prescribe his duties, which said bond shall be filed in the office of the clerk of the county court."

There is no statute contained in Article 10, Chapter 46, specifically providing for the payment of a salary to the treasurer of a special road district organized thereunder. Unless the statute prescribes such a salary the service as treasurer is deemed to be gratuitous. The following statement of this rule appears in *Nodaway County v. Kidder*, 129 S. W. (2d) 857, l. c. 860:

"The general rule is that the rendition of services by a public officer is deemed to be gratuitous, unless a compensation therefor is provided by statute. If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such statutes, too must be strictly construed as against the officer. *State ex rel. Evans v. Gordon*, 245 Mo. 12, 28, 149 S. W. 638; *King v. Riverland Levee Dist.*, 218 Mo. App. 490, 493, 279 S. W. 195, 196; *State ex rel. Wedeking v. McCracken*, 60 Mo. App. 650, 656.

"It is well established that a public officer claiming compensation for official duties performed must point out the statute authorizing such payment. *State ex rel. Buder v. Hackmann*, 305 Mo. 342, 265 S. W. 532, 534; *State ex rel. Linn County v. Adams*, 172 Mo. 1, 7, 72 S. W. 655; *Williams v. Chariton County*, 85 Mo. 645."

Hon. E. W. Bennett

-3-

Nov. 17, 1944

The second and third questions contained in your inquiry are answered by two opinions enclosed herewith, one dated October 7, 1942, to Hon. Wilson D. Hill, and one dated June 18, 1935, directed to Hon. G. Logan Marr.

The above and foregoing constitutes the opinion of this department.

Respectfully submitted,

RALPH C. LASHLY  
Assistant Attorney General

RCL:EG

APPROVED:

---

VANE C. THURLO  
(Acting) Attorney General