

OFFICIAL BONDS: Bond of County Collector of the Revenue.

January 22, 1945



Honorable Ray R. Fryer
Prosecuting Attorney
Clinton, Missouri

Dear Sir:

Reference is made to your letter of January 17, 1945, requesting an opinion of this office, in the following words:

"I would like to have your office express an opinion on the scope and amount of bond required of Collectors, setting out specific funds requiring separate bonds, etc. - this all at the request of the County Court."

In the absence of definite information relating specifically to Henry County with respect to population, nature of organization, total collections, etc., we are not in a position to give you a definite opinion.

However, the following comments on the statutes mentioned in your letter may be of some assistance.

The only official bond required of the collector of revenue is provided for by Section 11056, R. S. Missouri, 1939, as amended, Laws of Missouri, 1943, page 1063. The pertinent portion of such section reads as follows:

"Every collector of the revenue in the various counties in this state, * * * shall give bond and security to the state, to the satisfaction of the county courts, * * * in a sum equal to the largest total collections made during any one month of the year preceding his election or appointment, plus ten per cent of said amount:

Provided, however, that no collector shall be required to give bond in excess of the sum of seven hundred fifty thousand dollars, conditioned that he will faithfully and punctually collect and pay over all state, county and other revenue for the four years next ensuing the first day of March, thereafter, and that he will in all things faithfully perform all the duties of the office of collector according to law. * * * "

This statute further provides that in counties of less than eighty-five thousand inhabitants (see Laws of Missouri, 1943, page 1063), the county court may, by order of record, require daily deposits of collections in the county depository. In that event the total penalty of the bond may be fixed at a sum equal to the largest collections made during any calendar week of the year preceding the appointment of the collector, plus ten per cent of said amount.

Sections 11062, 11063 and 11064, R. S. Missouri, 1939, provide for the examination of the bond by the county court, the authority to require a new bond, and further provide for a vacancy in office for failure of the collector to provide such new bond.

Section 11067, R. S. Missouri, 1939, empowers the collector to appoint deputies, and authorizes him to require bonds from such deputies to protect himself. These bonds run to the collector, and the county court has no official connection therewith, as the primary responsibility for the collection of the moneys remains with the collector.

Section 12342, R. S. Missouri, 1939, provides for the posting of a bond with the board of supervisors of any drainage district organized under the provisions of Article 1, Chapter 79, R. S. Missouri, 1939. This bond runs to the board of supervisors, and again is one with which the county court has no official connection.

Section 13911, R. S. Missouri, 1939, applies only to counties containing a city having a population of not less than fifty-five thousand inhabitants nor exceeding one hundred fifty thousand inhabitants, and with taxable

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wealth of over fifty million dollars. Its provisions are not applicable to Henry County.

CONCLUSION

In the premises, we cannot render an opinion on the general questions submitted. The amount of the bond in each case must necessarily be determined by the county court in accordance with the quoted provisions of Section 11056, R. S. Missouri, 1939. However, as questions of a specific nature present themselves, we should be glad to give your office an opinion upon submission of the facts.

We trust the above outline will be of some assistance to you and your county court.

Respectfully submitted

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

HARRY H. KAY
(Acting) Attorney General

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