

TOWNSHIP TREASURERS:
COMPENSATION PAYABLE
FROM GENERAL FUNDS:

Compensation of township treasurers in
counties under township organization
payable out of general revenue funds.

July 9, 1947

FILED 83

Honorable Forrest Smith
State Auditor
Jefferson City, Missouri



Dear Sir:

We have your letter of recent date wherein you submit the following questions and statement for an official opinion:

"We have received several inquiries from township treasurers in counties of township organization as to whether their commissions which they are allowed under section 13987 R.S.Mo. 1939, should be taken out of the school fund, road and bridge fund, or all out of the general revenue fund.

"In other words, if warrants in the amount of \$250.00 are written on incidental fund of the school district; a warrant for \$250.00 on the road and bridge fund, and a warrant for \$500.00 on the general revenue fund of the township, whether the treasurer would retain $\frac{1}{4}$ of the 2% from each of the school and the road district and 50% from the general revenue from the fund of the township, or whether he is to retain the total commission out of the general revenue fund of the township.

"We would also like a further opinion as to whether the limit of \$1,000.00 would apply to the overall disbursements or whether the treasurer would be entitled to 2% on the first \$1,000.00 disbursed in the school fund; another 2% on the first \$1,000.00 disbursement on the road and bridge fund, and another 2% on the general revenue fund, or if the 2% applies to the first \$1,000.00 disbursed, regardless of the various funds affected."

Section 13987, R. S. Mo. 1939, which is referred to in your request and relates to the compensation of township trustee and ex officio treasurer, reads as follows:

"The township clerk, as clerk, the township trustee, as trustee, members of the township board, and judges and clerks of election, shall each receive for their services two dollars and fifty cents per day: Provided, that the township clerk shall receive fees for the following, and not per diem, for serving notices of election, or each: For filing any instrument of writing, ten cents; for recording any order or instrument of writing, authorized by law, ten cents for every hundred words and figures; for copying and certifying any record in his office, ten cents for every hundred words and figures, to be paid by the person applying for the same; and provided further, that the township trustee as ex officio treasurer shall receive a compensation of two per cent for receiving and disbursing all moneys coming into his hands as such treasurer when the same shall not exceed the sum of one thousand dollars and one per cent of all sums over said amount."

In considering questions of this type, the rule that the compensation of county officers is payable out of the general revenue fund of the county unless otherwise provided by statute is applicable. In the case of State ex rel. Hall vs. McElroy, 274 S. W. 753, the court, in discussing the mode of payment of the parole board of Jackson County, applied the foregoing rule and said at l.c. 754:

"* * *The law, after creating the office and prescribing the duties, fixes a salary of \$125 per month for the performance of those duties. The law does not say from what fund this salary shall be paid. We realize that in the creation of an office, the lawmakers might designate a fund out of which the salary shall be paid, and this fund may be other than the salary fund of the county. But such was

not done in this case. In such situation it will be presumed that the Legislature intended the salary to be paid as other official salaries are paid, i. e., out of the salary fund of the county. * * *

Referring again to said Section 13987, supra, it will be noted that this act provides for the compensation of the township trustee and ex officio treasurer, but it does not state from what fund this compensation shall be paid. Then, applying the principle announced in the McElroy case above, the compensation would be payable out of the general revenue fund. We are supported in our conclusion that this compensation is payable out of the revenue fund by the fact that some of the other county officers in counties under township organization are authorized to retain their fees out of taxes collected. We refer to the collectors and county treasurers in counties under township organization. In Section 13993, R. S. Mo. 1939, the county treasurer in such counties is allowed two per cent on delinquent taxes collected, and this compensation is taxed as costs against such delinquents and collected as other taxes.

Then, referring to Section 11106, R. S. Mo. 1939, which relates to the commission which the various county collectors may retain as their compensation, it will be noted that the following provision, relating to the payment of such fees, is made in said section:

"* * *All such commissions hereinbefore enumerated shall be deducted and retained by such collector out of the amounts collected for state, school, county and city, respectfully, and upon settlement with such collector shall be credited to his account and charged to the respective revenue accounts.* * *"

These provisions relating to the collectors and county treasurers in counties under township organization clearly indicate that the lawmakers did not intend that their compensation be paid out of general revenue.

Referring to the last paragraph of your request, in which you inquire as to the manner in which the township treasurer's commission is calculated, we find that this department, on August 10, 1937, rendered an opinion to the Honorable Charles

D. Brandom, Prosecuting Attorney of Daviess County, in which it was held that the township trustee is entitled to two per cent on the first \$1,000.00 received and disbursed, and one per cent on the remainder, and that the basis for the calculation of the amount of the commission is the total of moneys received and disbursed and not the total for each individual fund. We are enclosing a copy of this opinion for your information.

CONCLUSION

Therefore, the opinion of this department is that the compensation of the township trustee and ex officio treasurer in counties under township organization is payable out of the general revenue fund of such township and that his commissions are based on the total amount of all funds received and disbursed by him, and are calculated on the basis of two per cent on the first \$1,000.00 of such a total and one per cent balance of such total.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
Attorney General