

September 27, 1934

9-29



Honorable L. D. Brummitt
County Treasurer
Grundy County
Trenton, Missouri

Dear Sir:

We have your request for an opinion as follows:

"I am sighting you to sections 10880 and 10881, Revised Statutes of 1929. As Ex-Officio Collector, I collect drainage after it has become delinquent, receiving the consolidated drainage books as of March 1. For this service of collecting the delinquent drainage, I receive two percent from the drainage company.

"Quoting Section 10881, Revised Statutes of 1929. County Treasurers Fees. -- County Treasurers for receiving, receipting for, preserving and paying out, funds of drainage and levees districts, shall receive one per cent. of sums paid out. (R. S. 1919, 4576.)

"I would like to have your opinion as to whether I am entitled to this additional one percent. I am con-

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tending that as County Treasurer and Ex-Officio Collector that I am entitled to a total of three percent. As I collect the money, as collector, that I receive receipt for preserve and pay out as Treasurer."

The statutes cited in your request (10880 and 10881 R. S. Mo. 1929) for an opinion are a part of Article IV, Chapter 64, R. S. Mo. 1929. Article IV refers to "fees for services rendered in organizing drainage and levee districts".

A few of the applicable statutes relating to organization taxes, the duties of the county collector and county treasurer are briefly set out as follows:

Sec. 10752: "The board of supervisors * shall * levy a uniform tax of not more than fifty cents per acre * * to be used for the purpose of paying expenses incurred or to be incurred in organizing said district, * * * Such tax shall be due and payable as soon as assessed and if not paid by December 31 of the year in which it has been levied, the same shall become delinquent. * * * "

Sec. 10761: "It shall be the duty of the collector of revenue of each county * * to promptly and faithfully collect the tax * . He is further directed and ordered to demand and collect such taxes at the same time that he demands and collects state and county taxes due on the same lands and other properties. * * * "

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In counties under township organization the taxes are collected by township collectors who shall, (Section 10796, R. S. Mo. 1929)

" * receive the same compensation therefor and pay over such taxes to the Secretary of the Board of Supervisors, as provided for county collectors under this Article, and shall be subject to the same penalties and liabilities. * "

Section 10802 provides that after the organization of the Board of Supervisors, the qualification of the secretary, the filing and approval of the secretary's bond, the secretary,

" * shall call upon the county clerk or other person who may be in charge of the records of the district for all records, contracts, files, books, plats, maps and every article of record belonging to said district, and the county clerk or other person in charge of such records shall immediately deliver to said secretary of the district all such records and take the receipt of the secretary therefor. Said secretary shall also call upon the county treasurer or other person who has control of the funds of the district, for the transfer of all funds of the district to him and said treasurer or other person shall immediately transfer such funds, taking the receipt of the secretary for such funds."

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Section 10880, R. S. Mo. 1929, which allows a fee of one per cent. to the collector on all taxes collected for drainage districts and a fee of two per cent. on all such delinquent taxes, and Section 10881, R. S. Mo. 1929, which allows the county treasurers for receiving, receipting for, preserving and paying out funds of drainage and levee districts, a fee of one per cent. apply only to the organization fees collected or disbursed by them. A county treasurer who is also ex-officio Collector under township organization is entitled to the fees set out in these statutes (Sections 10880, 10881) only when collecting and disbursing the organization taxes. These sections do not apply to either annual or maintenance drainage taxes.

It is, therefore, the opinion of this office that since these two sections are a part of Article IV, the fees therein provided for must be limited to the collection and disbursement of organization taxes.

Respectfully submitted,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General

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