

3-15  
March 12, 1934.



Hon. Lawrence Holman  
Prosecuting Attorney  
Randolph County  
Moberly, Missouri

Dear Sir:

We are in receipt of your request for an opinion dated February 17, 1934, which reads as follows:

"There has been considerable discussion among County Officials, as to the construction of Section 12,165, as appears in the Session Acts of 1933, at page 353, in regard to the publishing of County Financial Statement.

"It seems to me that the Statute is rather plain and speaks for itself; however, in order that we may be sure about the proper construction, I wish you would please give me an opinion as to just what is necessary in order to make up a financial statement that will comply with this Statute."

Section 12165 and 12166 R. S. Mo., 1929, as amended in Laws of 1933, page 353 provides for the annual financial statement of county courts.

This law was approved by the Governor on April 7, 1933, and as there was no emergency clause attached to the bill it went into effect ninety days after adjournment, which would be July 24, 1933. Hence county courts are required to comply with the Act starting on or before the first monday in March, 1934.

In order for your county to publish the prescribed county financial statement for the year ending December 31, 1933, which is the financial statement for the preceding fiscal year, the law designates that the duty to prepare the said statement is primarily on the Clerk of the County Court, in those counties where the County Court has failed or refused to designate any other person, and whether the financial statement be compiled by the Clerk of the County Court or by the duly authorized agent appointed by the court, it must be certified to in the form prescribed by the Statute for certification. When the statement is compiled by an agent employed by the court, other than the County Clerk, the certification prescribed for the County Clerk is not required. For a false certification, one is liable on his bond, and the act is also

designated as a crime.

Any county court authorizing an agent to compile the financial statement should first let the terms of the authorization and employment show of record as provided in Section 12107, R. S. Mo., 1929, which provides:

"The county court may, by an order entered of record, appoint an agent to make any contract on behalf of such county for erecting any county buildings, or for any other purpose authorized by law; and the contract of such agent, duly executed on behalf of such county, shall bind such county if pursuant to law and such order of court."

The financial statement of any county should be compiled to include the following detail and be in substantially the following form, viz:

FINANCIAL STATEMENT FOR \_\_\_\_\_ COUNTY  
FOR THE YEAR ENDING DECEMBER 31 \_\_\_\_\_ AS  
COMPILED BY \_\_\_\_\_.

I.

The total bonded debt of \_\_\_\_\_ County outstanding December 31, \_\_\_\_\_, was \$ \_\_\_\_\_. If the County had outstanding bonds, then set out in detail the following facts, viz:

The bonds are identified as \_\_\_\_\_ bonds and mature as follows \_\_\_\_\_ their interest rate is \$ \_\_\_\_\_ and the annual levy for interest and sinking fund is \$ \_\_\_\_\_, as authorized by Section \_\_\_\_\_ R. S. Mo., 1929. The total amount of interest and sinking fund that has been collected is \$ \_\_\_\_\_, and the total amount of interest and sinking fund on hand in cash is \$ \_\_\_\_\_. The interest and sinking fund on hand has been loaned to the following persons as follows, viz:

	Name of Borrower	Amount of Loan	Interest on Loan	Description of Security	Amount of Interest Delinquent.
1.	_____	\$ _____	\$ _____	_____	\$ _____
2.	_____	\$ _____	\$ _____	_____	\$ _____
3.	_____	\$ _____	\$ _____	_____	\$ _____

II.

The total amount of county and township school funds on hand for the fiscal year was \$ \_\_\_\_\_, and the total amount loaned out was \$ \_\_\_\_\_.

The amount of fines, penalties and forfeitures collected during the year and turned into the permanent school fund was \$ \_\_\_\_\_.

The school loans now outstanding are as follows, viz:

	Name of Borrower	Amount of Loan	Date of Loan	Date of Maturity	Description of Security	Amount of Interest Delinquent.
1.	_____	\$ _____	_____	_____	_____	\$ _____
2.	_____	\$ _____	_____	_____	_____	\$ _____
3.	_____	\$ _____	_____	_____	_____	\$ _____

III.

The total valuation of county property for taxation for the fiscal year was \$ \_\_\_\_\_.

The Constitutional rate permitted by the Constitution was \$ \_\_\_\_\_.

The rate levied by the County Court was \$ \_\_\_\_\_, and said rate was divided among the several funds as follows, viz:

	Rate
1. Insane, State Institutions and Paupers	_____
2. Jury and Election	_____
3. Roads and Bridges	_____
4. Salary and Operation	_____
5. Contingent and Emergency	_____



7. From Fines and Penalties	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
8. From all Other Sources	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Total received in each Fund	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

VI.

The Counties' total disbursement for everything for the fiscal year was \$ \_\_\_\_\_.

The following salary warrants were issued and paid to officers drawing a yearly salary, viz:

1	2	3	4	5
Issued to	Title of Officer	How many Warrants	Drawn on what Fund	Total Amount Paid
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

Warrants No. \_\_\_\_\_ to No. \_\_\_\_\_ inclusive were issued and paid to judges and clerks of election at \$ \_\_\_\_\_ per day in the total amount of \$ \_\_\_\_\_. The Warrants were issued to the following named persons, viz:

The disbursements were made by road districts in the following manner, for fiscal year.

ROAD DISTRICT NO. 1.

Received \$ \_\_\_\_\_, which was disbursed as follows, viz:

Issued to	Purpose	Warrant No.	Date	Demand on what Fund	Amount.
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

(Set out each Road district as above) District total \_\_\_\_\_

The total disbursement made by all road districts for the fiscal year was \$\_\_\_\_\_.

The following disbursements were made by road overseers, for the fiscal year.

Name of Overseer	Paid to	Purpose	Total Amount Paid
_____	_____	_____	\$_____
_____	_____	_____	\$_____
Grand Total			\$_____

When the above purpose was for labor then set out the days worked and the rate paid per hour or per day.

The following receipts and disbursements were made by Special road districts for fiscal year.

Special road District No. \_\_\_\_\_

This district received \$\_\_\_\_\_ and disbursed it as follows:

Warrant No.	Issued to	Date	Purpose	Amount.
_____	_____	_____	_____	\$_____
_____	_____	_____	_____	\$_____
_____	_____	_____	_____	\$_____
Total Amount				\$_____

(All special Road Districts should be listed as above.)

The county distributive school fund received the following amount during the fiscal year from the following sources.

From	Amount.
_____	\$_____
_____	\$_____
_____	\$_____
Total	\$_____

The county distributive school fund was disbursed as follows for the fiscal year:

Disbursed to	Total Amount.
_____	\$ _____
_____	\$ _____
_____	\$ _____

If taxes were levied by virtue of Section 22, Article X, Constitution of Missouri, then fill in the following:

"By virtue and authority of the discretionary power conferred upon county courts of the several counties of this State to levy a tax not to exceed twenty-five cents on the \$100.00 assessed valuation the county court of \_\_\_\_\_ County did for the year covered by this report levy a tax of \_\_\_\_\_¢ on the \$100.00 valuation which said tax amounted to \$ \_\_\_\_\_ and was disbursed as follows."

Paid to	Warrant No.	Purpose	Amount.
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
<b>Total Amount</b>			\$ _____

All disbursements for the fiscal <sup>year not</sup> heretofore set out or included in the foregoing disbursements, are hereby set out as follows in detail:

Warrant No.	Date	Issued to	Purpose	Amount	Drawn on what fund
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

(Here follow in the language of the Statute the form therein set out for certification. Let the compiler date and sign the same.)

It is our opinion that this County Financial Statement law is a mandatory law prescribing duties and details that must be complied with. Any financial statement which follows the above form is prepared substantially in conformity to the requirements of the law set out in Sections 12165 and 12166 supra, and when the statutory certification is attached it is ready for publication. The statute provides that the Financial Statement be published in some newspaper of general circulation, published in the county, but if there be no newspaper, then the Statute provides for publication by posting the statement in ten public places in the county. According to the Statute, publication in one issue of a qualified newspaper meets the requirements as to publication.

Section 12166 supra, provides that the publisher, whom we believe will usually be a newspaper, as there is not a County in the State but that some newspaper can qualify for publication, must file two proofs of publication with the county court, and it then becomes the duty of the court to file one proof of publication in the records of the court and the other one they must forward to the State Auditor. The publisher is required to furnish the county court with a copy of the statement in addition to the one filed with proof of publication in the office of the court. This extra copy is to be posted on the records of the court after the court has made an order to that effect. The publisher is not entitled to his charge for printing until he has fulfilled the law in filing the required two proofs of publication and the extra statement to be posted in the record. The publisher must set his type in the manner that takes the least space measured by the standard column width measure. For the publication of said financial statement as above set out, the publisher is entitled to be paid his bid based on standard column width measure and if he did not bid for the job, then he is entitled to receive a reasonable amount based on standard column width measure.

Any person a designated and employed agent, by the county court, other than a bonded county officer, to prepare the Financial Statement, is required to give a surety bond for the faithful performance of his duty, and if a county officer or employed agent fail, neglect or refuse to prepare the statement in compliance with the Act, he is liable on his official bond for dereliction of duty, in addition to the criminal penalties above referred to.

Any person designated as agent by the court to prepare the county financial statement cannot be paid by the court for this service until the State Auditor has acknowledged receipt of his proof of publication and has notified the court that the Finan-

cial Statement complies with the requirements of law. For preparing the statement the court may allow the amount agreed on by contract of employment but not to exceed the price per hundred words permitted to the Clerk of the County Court for the writing of court record.

The pay for preparing and publishing the Financial Statement should be prorated among the several county funds in proportion that each item bears to the total cost of preparing and publishing said statement, and when it be not feasible to charge the proportionate share to any specific fund, then that proportionate share should be charged to the Salary and Operation Fund. For instance, that part of the statement which deals with the Permanent School Fund would entitle the publisher to a warrant from the Permanent School Fund, which warrant would be in the amount as the column inch published relating to the Permanent School Fund bears to the total column inch published in the whole Financial Statement. It would entitle the compiler to a warrant from the Permanent School Fund in the amount based upon the number of words used in matter relating to the Permanent School Fund compared to the total number of words used in the completed Financial Statement. On the other hand, matters in the statement relating to delinquent tax could not reasonably be charge against any fund by reason of the matter published, and hence this charge under the law should be made against the Salary and Operation Fund.

The duty to paste the published statement on the court records after the court so orders, is upon the Clerk of the County Court, and for pasting same on the record he is not to be allowed any pay.

There is a duty on the State Auditor, upon receipt of a County Financial Statement, to examine it and if it complies with the law, to approve it and immediately notify the County Treasurer and County Court that he has received the proof of publication and their Financial Statement for the fiscal year ending December 31,\_\_\_\_, and that it complies with the law. It is also the duty of the State Auditor to prepare sample forms for financial statements on or before July 24, 1934, and mail same to the County Clerks of each county in this State. On the other hand, the law provides that the failure of the State Auditor to supply forms does not excuse any person from performing any duty imposed by this Act.

This Act went into effect on July 24, 1933, and under the provisions of the Act the County Treasurer is restrained from either paying or entering for protest any warrant for the pay of

Hon. Lawrence Holman

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any Judge of the County Court after April 1, 1934, and until such time as he has received notice from the State Auditor that proof of publication of the County's Financial Statement as provided by this article has been filed in the Auditor's office, and if a County Treasurer pays or protests a salary warrant for any County Judge he is liable on his official bond for dereliction of duty.

If we have not fully covered the question submitted in your request we will be pleased to render you a further opinion in the matter.

Respectfully submitted

WM. ORR SAWYERS  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK  
Attorney General.

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