

TOWNSHIPS: Townships may issue warrants, which warrants shall bear interest.

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Honorable Mark Wilson  
Prosecuting Attorney  
Henry County  
Clinton, Missouri

Dear Sir:

This will acknowledge your letter of recent date requesting an opinion from this office, which reads as follows:

"Under Township Organization, can the Township Treasurer give protested warrants for township expenses, for instances road repair, where the amount in the treasure is not sufficient to pay such necessary expenses?"

I could find no law giving the Township Board or Treasurer power or authority to do this. I told them my opinion was that it could give warrants to be payable in the future but not to be protested so as to bear interest."

We direct your attention to Section 12256 R. S. Mo. 1929, relating to the powers of townships, which reads as follows:

"Each township, as a body corporate shall have power and capacity: First, to sue and be sued, in the manner provided by the laws of this state; second,

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to purchase and hold real estate within its own limits for the use of its inhabitants, subject to the power of the general assembly; third, to make such contracts, purchase and hold personal property, and so much thereof as may be necessary to the exercise of its corporate or administrative powers; fourth, to make such orders for the disposition, regulation or use of its corporate property as may be conducive to the interest of the inhabitants thereof; fifth, to purchase at any public sale, for the use of said township, any real estate which may be necessary to secure any debt to said township, or the inhabitants thereof, in their corporate capacity, and to dispose of the same."

Your attention is further directed to Section 12306 R. S. Mo. 1929, relating to claims, when allowed by the township board of directors and reads as follows:

"When any claim or account, or any part thereof, shall be allowed by the township board of directors, they shall draw an order upon the township trustee in favor of the claimant for the amount so allowed - - said order to be signed by the president of said board, and attested by the township clerk and delivered to said claimant."

It is evident from a careful reading of the above mentioned sections that it would be within the province of the township organization to issue warrants for township expenses relating to the repairs of roads. Under the provisions of Section 12257 R. S. Mo. 1929, no township shall possess any corporate power except such as are

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enumerated or granted by the chapter respecting township organization or shall be specifically given by law or shall be necessary to the exercise of the powers so enumerated or granted. In construing Sections 12256 and 12306, supra, in light of Section 12257, supra, it is our opinion that the township organization or board could issue warrants.

The general proposition of law respecting interest payable on warrants thus issued is found in Corpus Juris, Vol. 63, page 185, and reads as follows:

"Warrants constitute prima facie acknowledgments of town indebtedness, but do not bear interest unless by special provision under statutory authority."

Under the provisions of Section 2839 R. S. Mo. 1929, relating to interest payable upon moneys after they become due and payable on written contracts, creditors are entitled to receive six per cent interest per annum. In the instant case if the township organization proposes to issue these warrants for road repairs, such warrants would draw interest at the rate of six per cent per annum should no interest be specified on the warrant.

Your attention is directed to the case of Skinner v. Platte County 22 Mo. 436, wherein the Supreme Court said:

"In order to draw interest the warrant for allowance must be made out and presented for payment to the treasurer; if he has funds to pay with, he pays the warrant without interest; if he has no funds to pay with, & he shall so certify on the back of the warrant, date and subscribe the same." (R. C. 1845, page 311 Sec.6) From this date the warrant will bear interest."

If the expenditures contemplated for road expenses involve a very large amount of money, you are directed to

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Section 7961 R. S. Mo. 1929, which provides a method whereby the people of the township can accept or reject at the polls a proposed bond issue for contemplated road expenses.

In light of the foregoing, it is our opinion that township organizations may issue warrants for expenses covering road repairs and other such necessary expenses where the amount of funds in the treasury of such organization is not sufficient to pay the expenses. It is our further opinion the warrants so issued would bear interest under the general interest statutes.

Yours very truly,

RUSSELL C. STONE  
Assistant Attorney General

APPROVED:

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JOHN W. HOFFMAN, Jr.  
(Acting) Attorney General

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