

COLLECTOR'S BONDS:) County Court may pay premium on collector's
) bond, if collector elects to give surety
BONDS:) bond and county court consents to the giving
) of same.

December 20, 1937



Honorable Conn Withers
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of December 16th in which you request the opinion of this Department on the question therein submitted. Your letter is as follows:

"I respectfully request the opinion of your Department on the following matter:

"The Collector of the revenue of Clay County, Missouri, gave to the County his personal surety bond for his term of office which began March 1, 1935. He has been maintaining under his agreement with his sureties an indemnifying bond to protect the sureties on which he has personally paid the annual premiums, having purchased said indemnifying bond from a Surety Company.

"Do the provisions of the act providing for payment of surety bond premiums by the public body appearing in the Laws of 1937, at page 190, require Clay County, Missouri, to pay such premiums on such a Surety Company bond in the event said Collector requests that such

a Surety Company bond be accepted by the County for the remainder of his said term of office? It is understood that if said Collector is entitled to so give such Surety Company bond for the remainder of his said term that the consent and agreement of the County Court approving a particular Surety Company qualified under the provisions of said law can be easily reached and obtained.

"Since the County Court will soon have to decide this point they would appreciate as early a reply as is conveniently possible."

If we understand your question correctly it is, under the facts as stated in your letter: May the county collector, upon his request, compel the county court to accept a surety company bond for the remainder of his term even though he has an acceptable bond duly approved by the county court on file with the proper officers to protect the funds in his hands? If such surety bond is given by the county collector for the remainder of his term, is it the duty of the county to pay the premium on said bond?

Laws of Missouri, 1937, page 190, provides in part as follows:

"Whenever any officer of this state * * * or any officer of any county of this state * * * shall be required by law of this state * * * to enter into any official bond, or other bond, he may elect, with the consent and approval of the governing body of such state, department, board, bureau, commission, official, county, * * * or other political subdivision, to enter into a surety bond, or bonds,

with a surety company or surety companies, authorized to do business in the State of Missouri and the cost of every such surety bond shall be paid by the public body protected thereby.

"All laws in conflict with the provisions of this act are hereby repealed, insofar as such laws are in conflict with the provisions of this act."

We think that under the provisions of the above statute that if the county collector or other officers mentioned in this statute elect to enter into a surety bond or bonds and same is done with the consent and approval of the governing body, which in this case would be the county court, then, in that event, the county court would be required to pay the premium on such surety bond. In other words, if the collector in this instance elects to give a surety bond he must have the consent and approval of the county court to give such bond, then, in that event, it is incumbent on the county court to pay the premium on the bond. Conversely, if the county court does not consent to the officer giving a surety bond it is not required to pay the premium.

It is, therefore, our opinion that under the provisions of this Act that the county collector must first elect to give a surety bond and then it must be done with the consent and approval of the county court, and if those two things concur it is the duty of the county court to pay the premium on the bond.

Very truly yours

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General