

TOWNSHIP TRUSTEE: The township trustee is entitled to commission  
FEES: on all moneys which he is required by law as  
official to disburse.

October 20, 1939

10-24



Mr. Lee Hocker  
Chairman of the Township Board  
Prairie Hill, Missouri

Dear Sir:

This is in reply to yours of recent date wherein you submit the question of:

"Whether the township trustee is entitled to commission in paying out bonded money and also when the taxes are collected to pay such bonds off whether or not he would be entitled to a commission on warrants issued in payment of such bonds."

We note from your letter that you state that your township now has \$30,800.00 outstanding bonded indebtedness and that the reason that you make your inquiry is that it seems to you that the township would be paying the commission twice on the bond money, that is, that the trustee would be receiving a commission on moneys appropriated in payment of township indebtedness which moneys come from the proceeds of such bond sale and then when the moneys are collected to pay these bonds off that the trustee would be receiving the commission again.

The questions which you have submitted may be considered from two angles:

1. Is the trustee allowed commission on money which the township board directs him to pay out for legal demands against the township, such moneys being derived from the sale of the bonds belonging to the district and which were voted for that purpose?

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2. Is the trustee allowed a commission on moneys which the township board directs him to pay out for the purpose of paying off the bonds of the district?

On the questions which you have submitted, I find that the duties of the township trustee as to paying out of township funds in payment of claims against the township are set out in Section 12306, R. S. Missouri, 1929, which is 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."

Section 12303, R. S. Missouri, 1929, states what shall be charges against the township. This section is as follows:

"The following shall be deemed township charges: First, the compensation of township officers for their services rendered in their respective townships; second, contingent expenses necessarily incurred for the use and benefit of the township; third, the moneys authorized to be raised by the township board of directors for any purpose, for the use of the township."

You state in your letter that the bonds in question which had been issued by the district were in the amount of thirty thousand dollars. We presume these bonds were issued by virtue of the provisions of Section 7961, R. S. Missouri, 1929. It will be noted that Section 7963, R. S. Missouri, 1929, provides that when a township votes such bonds that the county court shall sell the bonds

and turn the proceeds over to the treasurer of the township and be by him disbursed on the order of the board. It appears from this section that it is the official duty of the township trustee to disburse such moneys.

Section 12288, R. S. Missouri, 1929, provides in part as follows:

"The township trustee and ex officio treasurer of each township shall receive and pay over all moneys raised therein for defraying township expenses; \* \* \* \* \*

Section 12290, R. S. Missouri, 1929, provides as follows:

"He shall keep a correct account of all moneys coming into his hands by virtue of his office, from what source received, and what amount, of the amount paid out, to whom paid, and on what account, in a book to be kept by him and provided for the purpose by the township; said book to be kept in such a manner as to show the amount of money in his hands belonging to each school district or fractional part in the township and the amount of road money belonging to the township. He shall make settlement annually between the twentieth day of March and the fifteenth day of April with the county clerk of all moneys received by him on account of schools, showing how the same have been disbursed, and he shall settle with the county treasurer within twenty days after the apportionment of the school funds to the school district, and receive all money in the hands of the county treasurer belonging to his township, and receipt for the same, and shall pay all warrants drawn on him by the board of school directors in his town-

ship out of the funds belonging to the district making the order, and he shall not pay any money out belonging to any other fund than that mentioned in the warrants, and he shall file with the township clerk on or before the day of the regular meeting of the township board in April a detailed statement of all money by him received and paid out, to whom and out of what fund, and the amount on hand, and at the expiration of his term of office he shall turn over to his successor all moneys, books and papers belonging to the office, and take duplicate receipts for the same, one to be filed with the township clerk, the other to be retained by himself."

Section 12291, R. S. Missouri, 1929, prohibits the township trustee from paying out any moneys except on order of the township board, and Section 12292, R. S. Missouri, 1929, requires the township trustee to make an annual settlement.

On the question of the township treasurer handling the proceeds of road bonds, we find that this department, on the 10th of August, 1938, by an opinion rendered to Mr. Mark W. Wilson, Prosecuting Attorney, Clinton, Missouri, written by Mr. Wasserman, has treated that subject. We are enclosing a copy of that opinion for your information. We are also enclosing a copy of an opinion dated August 10th, 1938, written to Honorable Glen W. Huddleston, Prosecuting Attorney at Carrollton, Missouri, by the writer of this opinion which treats on the question of disbursements made for expenses of the township. We are enclosing a copy of that opinion for your information.

#### CONCLUSION.

On the first question submitted above, it is, therefore, the opinion of this department that the township trustee should be allowed a commission on all moneys

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which the township board directs him to pay for legal demands against the township, even though the moneys used for the payment of such obligations come from the sale of bonds voted by the district.

Second, since the proceeds from the sale of the bonds are turned over to the township trustee and disbursed by him under order of the township board, and since he is required to receive, safely keep, account for and report on such funds, it is the opinion of this department that the township trustee is entitled to charge a commission on moneys which he pays out on order of the township board for the purpose of paying off such bonds.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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W. J. BURKE  
(Acting) Attorney General

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