

JACKSON COUNTY WATER
SUPPLY DISTRICT NO. 1:

Before any expenses are paid to directors of Jackson County Water Supply District No. 1, an itemized expense account should be submitted by each said director claiming reimbursement therefor.

March 8, 1960

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Honorable William A. Collet
Prosecuting Attorney
Jackson County
415 East 12th Street
Kansas City 6, Missouri



Dear Sir:

Your recent request for an official opinion reads:

"A complaint has been made to this office questioning the legality of a practice followed by certain directors of the Jackson County Water Supply District No. 1. It is reported that certain directors receive a monthly check for \$10.00 for 'expenses' but no expense account vouchers for the actual items of expense claimed were submitted to the District.

"I would appreciate your advising whether Section 247.060 which provides among other things that the directors shall serve without pay, prohibits the directors from receiving an allowance 'expenses' without exact itemized vouchers being furnished the District indicating the details of the claimed expenses."

We may state first that there is no provision made specifically in the law relating to county water supply districts for the payment of expenses (Sections 247.010 through 247.220, RSMo 1949).

Section 247.060, supra, provides that the directors of such a district shall serve without pay.

However, the fact that no provision is made for expenses

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for directors of a county water supply district does not necessarily mean that the directors may not legitimately receive expenses. In the case of Rinehart v. Howell County, 153 S.W. 2d 381, the Missouri Supreme Court was dealing with a situation in which Homer Rinehart, Prosecuting Attorney of Howell County, filed suit for reimbursement of reasonable sums paid by him for necessary stenographic services incurred in the discharge of his official duties as prosecuting attorney of said county. At l.c. 382 (3), the court stated:

"[3] So far as presented for review, the record, viewed in the light of the judgment for respondent, is to be considered as establishing that the expenditures for which respondent asked reimbursement were for indispensable outlays for stenographic services incurred in the discharge of his official duties. Appellant offered no evidence and its brief does not question the probative value of respondent's testimony tending to establish said fact. The case is to be distinguished from cases announcing the rule that officials may not receive compensation in addition to that authorized by law. ***"

Under the same citation, the court further stated:

"[3] * * * The instant case was submitted on the theory, as disclosed by the stipulated facts and undisputed testimony, that the outlays, as contradistinguished from income, were bona fide, reasonable and actual expenditures for indispensable expenses of the office by respondent (not on the theory that compensation to an officer was involved) and falls within the ruling in Ewing v. Vernon County, 216 Mo. 681, 695, 116 S.W. 518, 522(b). That case quoted with approval a passage from 23 Am. and Eng. Ency. Law, 2d Ed., 388, to the effect that prohibitions against increasing the compensation of officers do not apply to expenses for fuel, clerk hire, stationery, lights and other office accessories and held a recorder entitled to reimbursement for outlays for necessary janitor service and stamps, stating: 'Fees are the income of an office. Outlays inherently differ. An officer's pocket in no way resembles the widow's cruse

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of oil. Therefore those statutes relating to fees, to an income, and the decisions of this court strictly construing those statutes, have nothing to do with this case relating to outgo.'

"[4] Appellant points out that, by Secs. 13514, 13467, 12952, and 12979, R. S. 1939, Mo.St. Ann. p. 7056, Sec. 11875, p. 7042, Sec. 11835, p. 606, Sec. 11326, and p. 613, Sec. 11353, the General Assembly authorized and established salaries for stenographic services to prosecuting attorneys in the larger counties of the State, did not provide for like services in counties of the population of Howell County, and contends for the application of the maxim expressio unius est exclusio alterius. The duties of a prosecuting attorney are many and varied. He, among other things in addition to the prosecution of criminal actions, represents the state and county in all civil cases in his county, represents generally the county in all matters of law, investigates claims against the county, draws contracts relating to the business of the county, gives legal opinions in matters of law in which the county is interested, et cetera. Sections 12942, 12944, 12945, 12947, R.S. 1939, Mo.St. Ann. pp. 600, 602, 603, 604, Secs. 11316, 11318, 11319, 11321. The legal aspect of the instant contention differs from that ordinarily encountered. Our Constitution, Art. 6, Sec. 36, Mo.St. Ann., provides: 'In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law.' In State ex rel. v. McElroy, 309 Mo. 595, 608 (II), 274 S.W. 749, 751[1], we construed said provision to authorize county courts to transact all county business and such other business as may be added to their jurisdiction by law."

Since we do not know the nature of the expenses involved in the instant case, we are unable to say whether they fall within the principle of indispensable outlays which is set forth and developed in the Rinehart case. We certainly are not justified in categorically stating that they do not come within the purview of these principles. On September 4, 1947 this department rendered an opinion, a copy of which is enclosed, to Hugh I. McSkimming, Division of Collection, Department of Revenue, in

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which we upheld this principle, holding the right of reimbursement for a public official for travel expense necessarily incurred in the discharge of his official duties.

Hence, we pass to the second phase of your question, to wit, whether, assuming that such expenses are legitimate and allowable, it is prerequisite to their payment that an expense account and vouchers for the actual items of expense claimed must be submitted to the district before the expense accounts are paid.

On this point we find no indication in the law relating to this matter. Neither do we find any general law which we deem to be applicable. However, we do note numbered paragraph 2 of Section 247.080, which reads:

"2. The board shall have power and it shall be its duty to employ necessary help and to contract for such professional service as the demands of the district require in creating and operating a waterworks system contemplated in this law, and shall pay out of the funds of the district available for such purposes reasonable compensation for the service rendered. It shall have made by a competent accountant an annual audit of the receipts and expenditures of the district. All persons employed shall serve for an indefinite term and at the will of the board, and party politics shall not enter into the selection of employees."

It will be noted that the requirement there is that an annual audit be made by a competent accountant of the receipts and expenditures of the district. It would be difficult for us to comprehend how such an audit as is contemplated herein could be made without an itemization of expenses. In the case of *State v. Thompson*, 85 S.W. 2d 594, at l.c. 599 (6), the Missouri Supreme Court stated:

"[6] * * * The word 'audit,' as used in the statute (Mo. St. Ann. §13799, p. 7782), specifically dealing with the commissioners, was used in the sense of inquiring into, hearing evidence upon, adjusting, correcting, and settling the details of the work, and its conformity with the orders given, and to determining the correctness of the charges

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made for the various items thereof and for the aggregate, and to certify the correct result on the whole to the auditor for his official acts in regard to the claims.***"

In the case of Application of Sullivan, 78 N.E. 2d 467, the Supreme Court of New York stated that the meaning of the word "audit" was to be ascertained from all surrounding facts and purposes to be accomplished, it being sometimes restricted in meaning to a checkup of correctness of the account or claim and at other times embracing not only an examination of accounts and a comparison of charges with vouchers, but also an allowance or rejection of charges.

We have noted above that in the light of the Rinehart case, some expenses are allowable although not specifically provided for. The implication which is carried by the Rinehart case is that there are other categories of "expenses" which, in the lack of specific authorization, are not legitimate and allowable. In the instant situation, if there were no itemization it would be impossible to determine whether or not these expenses were or were not allowable. We believe, therefore, that they should be itemized.

CONCLUSION

It is the opinion of this department that before any expenses are paid to directors of Jackson County Water Supply District No. 1 an itemized expense account should be submitted by each director claiming reimbursement therefor.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General

HPW:mc

Enclosure