

TOWNSHIP AUDITS:

The State Auditor will audit the books and accounts of a municipal township when requested to do so by 5% of the qualified voters of such township determined on the basis of votes cast for the office of Governor in the last preceding election. The actual cost of such audit to be paid by the township.

October 10, 1960



Mr. William E. Gladden  
Prosecuting Attorney  
Texas County  
Houston, Missouri

Dear Sir:

Your recent request for official opinion reads:

"Texas County is a township organization county and I have had inquiry from some of the members of a township board with regard to what is necessary to obtain an audit of the books of the Township Treasurer of this particular township. The information they have furnished me would definitely indicate there should be an audit of such books.

First: Will the office of the State Auditor conduct an audit of township books?  
Second: If the office of the State Auditor will conduct such an audit, who must make the request? Also, would the audit be at state expense or who would have to pay the audit expense?  
Third: If the State Auditor's office will not conduct the audit, what steps must be taken by what officials to affect such an audit?

I have had several inquiries from the officials involved and they are quite anxious to get some action on this matter, therefore your prompt attention to this matter would be appreciated by this office."

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In regard to the above we direct your attention to Section 29.230, RSMo 1949, which reads:

"At least once during the term for which any county officer is chosen, the state auditor shall examine, inspect, and audit the accounts of the various county officers of the state supported in whole or in part by public moneys, and without cost to the county, county clerks, circuit clerks, recorders, county treasurers, county collectors, sheriffs, public administrators, probate judges, county surveyors, county highway engineers, county assessors, prosecuting attorneys, county superintendents of schools, in every county in the state which does not elect and have a county auditor. Such audit shall be made by the state auditor as near the expiration of the term of office as the auditing force of the state auditor will permit. Such audit shall be made in counties having a county auditor whenever qualified voters of the county to a number equal to five per cent of the total number of votes cast in said county for the office of governor at the last election held for governor preceding the filing of such petition shall petition the state auditor for such audit, but such counties shall pay the actual cost thereof into the state treasury; provided, that any county having an audit by petition shall not be audited more than once in any one year. He shall audit any department, board, bureau or commission of the state which is under the control or supervision of the governor or any other elected official of the state, upon the request of the governor, and he shall further audit any political subdivision of the state whenever requested to do so by five per cent of the qualified voters of such political subdivision, determined on the basis of the votes cast for the office of governor in the last election held. Such political subdivision shall pay the actual cost thereof; provided that no political subdivision shall be so audited by petitions more than once in any one calendar or fiscal year. (L. 1945 p. 584 § 21, A. 1949 S. B. 1012)

From the underlined portions of the above Section you will note that under the circumstances set forth therein the State Auditor will audit the books of and accounts of "any political

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subdivision of the state". The question therefore, is whether a township is a political subdivision.

We believe it to be a political subdivision.

In the case of Grand River Township, DeKalb County, vs. Cooke Sales and Service, Inc. 267 S.W. 2d, 322, the Missouri Supreme Court stated (l.c. 323 [1]):

"Plaintiff had verdict and judgment for \$2,213.60, paid by it to defendant on a contract of sale of a used motor road grader, submitted on the theory of rescission of the contract. Defendant has appealed. We have jurisdiction because plaintiff is a political subdivision of the State. Section 3, Art. 5, 1945 Const. V.A.M.S.; Harrison and Mercer County Drainage District v. Trail Creek Tp., 317 Mo. 933, 297 S.W. 1."

In the Harrison case referred to above the Missouri Supreme Court in part (Harrison and Mercer County Drain. District v. Trail Creek Township, 297 S. W. 1) (l.c. 4 [1]):

"The general township organization law aforesaid, enacted by the General Assembly pursuant to the aforesaid constitutional authority, plainly contemplates the organization or creation of the township as a separate and distinct unit of government, or, in other words, as a political (i.e., governmental) subdivision of the state. The township organization law provides for a distinct and separate government of the township, as a unit of government, in those counties of the state voting to adopt the township organization plan. It provides for the election of certain township officers and prescribes their governmental duties, powers, and authority. It provides for the assessment, levy and collection of the revenue in such organized townships, not only to defray the usual and ordinary township governmental charges and expenses but also for road and bridge uses and purposes. In other words, the general township organization law, and the constitutional authority under which such general law was enacted, in our judgement and opinion, contemplates and provides for the creation of a separate and distinct unit of government, known as an organized township, having certain governmental powers and charged with certain

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governmental obligations and duties similar to those of a county. Hence, we think that the framers of our Constitution of 1875, when they wrote into Section 12, art. 6 of said Constitution, that the Supreme Court shall have exclusive jurisdiction on appeal, 'in cases where a county or other political subdivision of the state \* \* \* is a party,' must have had in mind in the use of the words 'or other political subdivision of the state', that the General Assembly, pursuant to the authority granted by section 8, art. 9, of the same Constitution, might or would provide, by general law, for the creation of the organized township as a unit of government, separate and distinct from the county."

#### CONCLUSION

It is the opinion of this department that the State Auditor will audit the books and accounts of a municipal township when he is requested to do so by 5% of the qualified voters of a township, determined on the basis of votes cast for the Office of Governor in the last preceding election, the actual cost of such audit to be paid by the township.

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

Yours very truly,

JOHN M. DALTON  
Attorney General

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