

BONDS: The bond of the county collector of second class counties shall be fixed as provided
COUNTY COLLECTORS: in Subsection 1 of Section 52.020, RSMo 1959, within the limits provided in Section 52.380.

Opinion No. 64 (Denman)

February 5, 1963



Honorable Don E. Burrell
Prosecuting Attorney
Greene County
Springfield, Missouri

Dear Mr. Burrell:

This is in answer to your letter of January 10, 1963, requesting an opinion of this office on the following matters:

"Our County Court has received a letter from W. T. Scott, Supervisor, County Department of Revenue, this letter purports to say the County Collector must put up a bond in the amount of the sum of the collections for the month of December 1961 plus 10%. Along with this letter he sends us the bond form #27, and on the second page of this bond form, it provides that if the County Court has applied the 'Depository Law' to the County Collector, then the bond may be considerably reduced. The exact language is as follows, 'it is made in a sum equal to one-fourth of the largest total collections made during any one month of the year immediately preceding his election plus 10%.'

"In arriving at this figure, do you take the total collections for the month of December and add 10% of that figure to that figure and then divide by four, or do you take the total collections in the month of December, divide it by four and then add thereto the sum of 10% of the collections for December.

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"Also in reading RSMo 59, section 52.020, I find a provision as follows, 'no collector shall be required to give bond in excess of the sum of \$750,000.00,' and I do not find where this provision has ever been repealed.

"Naturally, our County Court is anxious to reduce the bond premium as much as possible, and I would much appreciate your opinion on No. 1 the method of computing the amount of bond outlined above, and No. 2 whether or not the \$750,000.00 limitation is applicable to Greene County, a second-class County."

Section 52.020 RSMo 1959 provides:

"1. Every collector of the revenue in the various counties in this state, * * * before entering upon the duties of his office, shall give bond and security to the state, to the satisfaction of the county courts, * * * in a sum equal to the largest total collections made during any one month of the year preceding his election or appointment, plus ten per cent of the amount; but no collector shall be required to give bond in excess of seven hundred and fifty thousand dollars. * * *

"2. In all third and fourth class counties the county court may require the county collector to deposit daily all collections of money in the depositories selected by the county court * * *. If daily deposits are required to be made, the county courts may also require that the bond of the county collector shall be in the sum equal to one-fourth of the largest amount collected during any one month of the year immediately preceding his election or appointment, plus ten per cent of the amount. * * *"

Section 52.380 RSMo 1959, relating to class two counties, provides:

"From and after the taking effect of this section the bond of the county collector in all counties herein included shall be

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not less than fifty thousand dollars nor exceeding seven hundred and fifty thousand dollars, the amount of said bond to be fixed by the county court, * * *."

There seems to be some conflict between Sections 52.020 and 52.380 inasmuch as Section 52.020 prescribes the method for determining the amount of the bond of the county collector for all counties, whereas Section 52.380 provides that the amount of the bond of county collectors in counties of the second class shall be fixed by the county courts. Section 52.380 sets a lower limit of \$50,000, and both sections set an upper limit of \$750,000.

Prior to 1959, second class counties were included in what is now subsection 2 of Section 52.020, which provides that the county courts of third and fourth class counties may require daily deposits by the county collector and, if so required, may reduce the bond of the collector accordingly. However, the conflict was still present as this provision also prescribed the method of computing the amount of the bond and did not leave it to the discretion of the county court in second class counties.

The statutes were passed to insure that the public is adequately protected against any mismanagement of funds by the various county collectors, and the methods of determining the amount of the bonds sufficient to protect the public were prescribed for all counties.

In construing statutes which appear to be in conflict, the court must harmonize such statutes, if possible, with the general legislative purpose and give force and effect to each. *State v. Crouch*, 316 SW2d 553. It is not reasonable to believe that in Section 52.380 the Legislature intended to except class two counties from provisions of Section 52.020 and allow the county courts of such counties almost unlimited discretion in fixing the amount of the bond of the county collector. It is our opinion that the bond of the county collector of counties of the second class must be determined by the method provided by subsection 1 of Section 52.020. However, the bond may not be less than \$50,000 nor in excess of \$750,000.

In answer to your specific questions, Greene County as a second class county, does not come under subparagraph 2 of

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Section 52.020, and the method of computing the bond under this section is not applicable to your county. The bond form sent to you is the same as that sent to all counties and therefore includes the provisions relating to the depository law applicable to third and fourth class counties. The bond of the County Collector of Greene County must be computed in accordance with Section 52.020, subsection 1, and may not be in excess of \$750,000 nor lower than \$50,000.

CONCLUSION

Therefore, it is the opinion of this office that the bond of the county collector of second class counties shall be fixed as provided in subsection 1 of Section 52.020, RSMo 1959, within the limits provided in Section 52.380.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John H. Denman.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

JHD: sr