

September 5, 1963



Honorable Lewis B. Hoff
Prosecuting Attorney
Cedar County
Stockton, Missouri

Dear Mr. Hoff:

This refers to your letter of June 19, 1963, relating to the receipt of compensation by the probate judge and ex officio magistrate of your county for service performed by him as a member of the municipal band of the City of El Dorado Springs, Missouri.

You inquire whether his receipt of compensation for such services would be in violation of the provisions of Section 482.030, RSMo 1959, which prohibit any magistrate from receiving "any other or additional compensation for any other public service." A like prohibition, applicable to all judges and magistrates, is contained in Article V, Section 24, Constitution of Missouri.

You state that the municipal band in El Dorado Springs is supported by tax money pursuant to Sections 71.640 to 71.670, RSMo 1959, under which certain municipalities may have a special tax levy to create a "band fund."

Under Section 71.670, no money may be disbursed from the fund so created except pursuant to a written contract entered into by the municipality with the authorized officials of a band for the employment of the band to perform certain services. That section further provides that the band shall administer its own financial and business affairs.

In view of these statutory provisions concerning the relationship between a municipality and its municipal band and the disbursement of money from a municipality's

Honorable Lewis B. Hoff

"band fund," it is our view that the receipt of compensation by a person for services performed by him as a member of a municipal band does not constitute receipt of compensation for public service, within the meaning of the provisions of Section 482.030, RSMo 1959, and Article V, Section 24, Constitution of Missouri, mentioned above.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

By John C. Baumann
Assistant Attorney General

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