

TREASURER: (1) The proposals of the St. Louis  
PAYROLL WARRANT REGISTER: County Auditor that the St. Louis County  
CHECKS: Treasurer (1) provide the Data Process-  
ing Department with a beginning check  
number and (2) that the Treasurer incorporate the records produced  
by another department into his register, would both violate the  
statutory duties of the Treasurer.

OPINION NO. 323 (1965)  
OPINION NO. 27 (1966)

February 2, 1966



Honorable Haskell Holman  
State Auditor  
State of Missouri  
Jefferson City, Missouri

Dear Mr. Holman:

This is in response to your August 5, 1965, request for an opinion from this office concerning the legal status of several proposals of the St. Louis County Auditor. The proposals, if adopted, would affect the functions of the St. Louis County Treasurer. The proposals of the St. Louis County Auditor, as we understand them, are set out and discussed in I and II below.

Prior to discussing the proposals, however, we feel it is necessary to discuss briefly the general legal complexion of St. Louis County.

St. Louis County has heretofore adopted a special charter under the provisions of Sections 18(a) to 18(1) of Article VI of the Missouri Constitution of 1945.

The Charter has no specific article or section outlining the powers and duties of the County Treasurer, although, Section 3 provides for the election of a County Treasurer, and Section 44 states that the Treasurer shall be head of the Division of Finance in the Department of Finance & Records.

The County, by use of its charter, is required to provide "for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the State." Article VI, Section 18(b), Missouri Constitution.

Although the charter takes precedence over general statutory provisions with respect to the agencies in the various counties in the state, (State ex rel. Shepley v. Gamble, 280 S.W. 2d 656, 662),

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the St. Louis County charter has no provisions with respect to the duties of the treasurer.

To treat the charter as out of and beyond all legislative influence would be to nullify the express constitutional limitations. (See Kansas City v. Field, 12 S.W. 802). The county charter operates against the backdrop of general statutory provisions. The charter must not be out of harmony with the general laws of the state nor invade the provisions of general legislation nor attempt to change the policy of the state. (Kansas City v. Marsh Oil Company, 41 S.W. 493).

Since the framers of the Charter of St. Louis County did not see fit to specifically spell out the duties of the County Treasurer, the statutes must be employed to supplement the charter.

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In order to more fully understand the problems you pose in your letter, it was necessary for us to look into the payroll system as it now functions in St. Louis County.

Stating it as simply as possible, we understand the following to be the procedure now employed in issuing paychecks by St. Louis County.

1. At the same time as the preceding payroll period checks are issued, each department receives a printed Payroll Time Record from the Data Processing Department. This record is anticipatory and based on the preceding payroll.

2. At the end of the pay period the departments review the Time Records; make any necessary changes; an authorized person signs it; and the Time Record is returned to the County Auditor.

3. The Auditor forwards this information to the Data Processing Department.

4. Data Processing runs the Payroll Register, based on the latest updated Payroll Time Record, showing the actual amount of the payroll, deductions, etc.

5. Data Processing runs the updated Time Records for the next pay period.

6. Data Processing runs the checks and the payroll Warrant Register. The auditor supplies a beginning Warrant number to be printed on the warrants by Data Processing as well as in the Warrant Register. The Payroll Warrant Register is prepared by Data Processing and is an itemized list and summary of all checks issued and the total for each fund and department.

7. After the checks and warrants are run, the Treasurer and Auditor bring their signature plates to Data Processing and Data Processing again runs the warrants and checks, stamping them with the Auditor's signature and the Treasurer's signature respectively.

8. The Treasurer immediately takes the checks and the warrants to his office.

9. A Treasurer's check number is stamped with a numbering machine on both the paycheck and the warrant, by the Treasurer.

10. The checks are then listed by the Treasurer on the Register of Warrants and Checks Issued by the Treasurer. This listing is done on a Burroughs Bookkeeping Machine and the machine automatically prints the date issued and the Treasurer's check number on the Register.

11. An adding machine tape is run on the checks and is used by the bookkeeping machine operator for balancing his records against the checks issued, under the control of the Treasurer.

12. Each check is entered in the Treasurer's Register individually.

The St. Louis County Auditor has proposed several changes in the foregoing payroll procedure.

The question has been raised as to whether or not such proposals would breach the authority and responsibility of the St. Louis County Treasurer.

## I

It is proposed that the treasurer furnish the Data Processing Department with his beginning check number (at step 6 above) and permit the check numbers to be printed on the paychecks and the warrant at the same time the checks are written.

Section 110.240, RSMo 1959, calls for the Treasurer to draw his check upon the presentation of any warrant drawn by proper authority. In this case the warrants are, in effect, drawn by the county and authorized by the county supervisor. The statute refers to warrant and check in the singular and, in fact, the warrants and checks are printed, though quite rapidly, on an individual basis with each check attached to its respective warrant. All information is printed on the checks by Data Processing such as, the employees name, the warrant number, the amount of the check, etc., and the check is stamped with the Treasurer's signature.

However, it is to be noted that the checks are not marked with the check number at this point and without such number, although potentially negotiable, they are not considered valid by the county. In short, the checks have not yet been drawn by the Treasurer. Literally from the instant the checks emerge from the Data Processing machine unnumbered, the Treasurer exerts physical control over them and continues to exercise such control until the checks are validated with the check number, i.e., drawn (steps 8 to 12).

The Auditor proposes that the validating check number be marked on the checks at the time they are run. We fail to see how such a procedure would meet the statutory requirements of Section 110.240, RSMo 1959. Section 110.240, RSMo 1959, requires the Treasurer to be presented with the warrant prior to his drawing the check. Under the St. Louis County Auditor's proposal the checks would be drawn simultaneously with the warrants with no intermediate act performed by the Treasurer. Hence the functions the Treasurer is required to perform by statute would be eliminated.

It is important that the sequence, as set out in 110.540, be followed. It affords the Treasurer an opportunity to perform duties he is required by law to perform. Sections 54.140, 110.240 and 50.160 to 50.310, RSMo 1959. He is criminally liable if he fails to perform certain of these duties, Sections 50.320 and 54.140, RSMo 1959.

## II

It is proposed that instead of entering the individual paychecks and warrants in the Treasurer's Register (step 10 above), the Treasurer only enter the total of the checks issued for each fund and incorporate the Payroll Warrant Register (produced by Data Processing) into the Treasurer's Register, since it shows the same information as the Treasurer records on his books.

Section 50.220, RSMo 1959, requires:

"[The Treasurer] shall procure and keep a well-bound book, in which he shall make an entry of all warrants presented to him for payment, which shall have been legally drawn for money by the county court of the county of which he is the treasurer stating correctly the date, amount, number, in whose favor drawn, by whom presented, and the date same was presented; and all warrants so presented shall be paid out of the funds mentioned in such warrants, and in the order in which they shall be presented for payment; provided, however, that no warrant issued on account of any debt incurred by any county other than those issued on account of the ordinary and usual expenses of the county, shall be paid until all warrants issued for money due from the county on account of

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services that are usual, and for all expenses necessary to maintain the county organization for any one year, shall have been fully paid and liquidated."

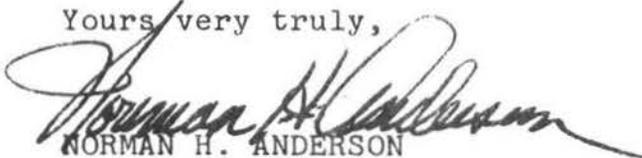
The foregoing statute clearly requires the Treasurer to make the entries himself, this can reasonably be extended to mean by himself or members of his staff. There is no authority in any statute for the Treasurer to adopt the Data Processing records. A record prepared by Data Processing, a separate department not under the control, authority or supervision of the Treasurer, would not be a record prepared by the Treasurer, pursuant to Section 50.220, RSMo 1959.

While these proposals may incorporate new ideas and new methods and may be more efficient and reduce the cost of operation of the county and even in all respects may be desirable yet the determination of this policy is for the legislature and the people to decide. This office is not authorized to do so by interpretation of the law contrary to its manifest meaning.

#### CONCLUSION

Therefore, it is the conclusion of this office that it would breach the authority and duty of the St. Louis County Treasurer if he (1) furnished the Data Processing Department of St. Louis County with a beginning check number and authorized payroll checks to be drawn simultaneously by such department with the printing of the paycheck warrants or if he (2) incorporated a record produced by the Data Processing Department into those records he is required by law to make himself.

Yours very truly,

  
NORMAN H. ANDERSON  
Attorney General