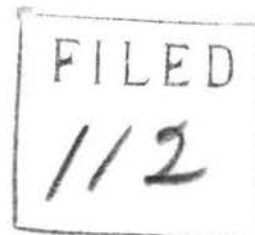


FEES AND SALARIES:
TOWNSHIPS:
COMPENSATION AND SALARIES:
TOWNSHIP TREASURER:

Section 65.230(2), RSMo 1959, authorizes compensation to a township treasurer of two per cent on all funds handled by him up to the amount of \$1,000.00, and one per cent on all funds in excess of such amount. He is not entitled to receive two per cent on funds received by him, and another two per cent for disbursing the same funds.

February 11, 1969

Opinion No. 112



Mr. Jack Lukehart
Prosecuting Attorney
Chariton County
Keytesville, Missouri 65261

Dear Mr. Lukehart:

This official opinion is in response to your inquiry as to the proper compensation of a township trustee in his capacity as ex officio treasurer.

The statute which you ask us to construe is as follows:

"The township trustee as ex officio treasurer shall receive a compensation of two per cent for receiving and disbursing all moneys coming into his hands as ex officio treasurer when the same shall not exceed the sum of one thousand dollars and one per cent of all sums over this amount." (§65.230(2), RSMo 1959).

Your specific question is whether the treasurer may receive two per cent for receiving and disbursing, or two per cent for receiving, and two per cent for disbursing the funds. The former construction renders the word "and" in the phrase "receiving and disbursing" conjunctive, and the latter construction renders it disjunctive.

"While the word 'and' is ordinarily used in a statute, and is so considered by the courts, as a conjunctive, conjunctive words of such nature may

Mr. Jack Lukehart

sometimes be construed as disjunctive, unless such construction violates the intention of the legislature. This construction is never resorted to except for strong reasons and unless the context favors the conversion...." (82 CJS Statutes, §335, pp. 673-674).

Numerous Missouri cases have held that statutes relating to the compensation of public officers must be strictly construed in favor of the government and that an officer is entitled only to that which is clearly given. *Becker v. St. Francois County*, 421 S.W. 2d 779, 783 (Div. 1, 1967); *Felker v. Carpenter*, 340 S.W.2d 696, 701 (Div. 1, 1960); *Ward v. Christian County*, 111 S.W.2d 182, 183 (Div. 1, 1937); *Holman v. City of Macon*, 137 S.W. 16, 17 (K.C. App., 1911); *State ex rel. Linn County v. Adams*, 72 S.W. 655, 656 (Div. 1, 1903); *State ex rel. Troll v. Brown*, 47 S.W. 504, 505 (Div. 2, 1898); *State ex rel. Stewart v. Wofford*, 22 S.W. 486, 487 (Div. 2, 1893).

Furthermore, it has been held that a municipal officer claiming a salary of a given amount must point to the provision of the laws which with certainty and beyond doubt authorizes it, and in case of doubt as between the municipal corporation and its officer, a statute or ordinance fixing the compensation is to be construed so as to protect the municipal treasury. *Nodaway County v. Kidder*, 129 S.W.2d 857, 860 (Div. 1, 1939).

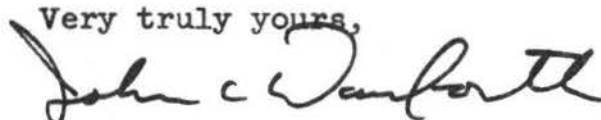
In light of the foregoing, it is our opinion that the statute authorizes compensation to the township treasurer of two per cent on all funds handled by him up to \$1,000.00, and one per cent on all funds in excess of \$1,000.00.

CONCLUSION

Therefore, it is the opinion of this office that Section 65.230(2), RSMo 1959, authorizes compensation to a township treasurer of two per cent on all funds handled by him up to the amount of \$1,000.00, and one per cent on all funds in excess of such amount. He is not entitled to receive two per cent on funds received by him, and another two per cent for disbursing the same funds.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Louren R. Wood.

Very truly yours,



JOHN C. DANFORTH
Attorney General