

TOWNSHIPS:
BONDS:
TOWNSHIP COLLECTOR:

A township board may consent to pay the cost of a surety bond of the township collector. Such consent is discretionary with the township board and if it is not given the township collector must pay the cost of such bond whether it be a personal or surety bond.

OPINION NO. 316

December 16, 1969



Honorable Paul McGhee
Prosecuting Attorney
16 North Elm Street
Dexter, Missouri 63841

Dear Mr. McGhee:

This is in response to your request for an opinion from this office as follows:

"Stoddard County has the township organization form of government, and is of the third class. I have been asked by a township collector whether your office may have an opinion stating whether a township collector must buy his own bond, or whether the township must pay for the cost of the bond. If you have any opinions on file dealing with this question, I would appreciate receiving a copy of the same."

Section 65.460, RSMo 1959, provides in part:

". . . The township collector shall before he receives the tax books give bond and security to the state, to the satisfaction of the county court, in a sum equal to one-half the largest amount collected during any one year preceding his election or appointment, including school taxes. Such bond shall be executed in duplicate, one part thereof shall be deposited and

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recorded in the office of the clerk of the county court, and the other part shall be transmitted by the clerk to the state tax commission. The conditions of such bond shall be that he, the said collector, will faithfully and punctually collect and pay over all state, county, township and other revenue, including school taxes, that may become due and collectible during the period for which such collector shall be elected or appointed; and that he will in all things faithfully perform all the duties of the office of township collector according to law; provided, the county court or township board shall annually examine the collector's or trustee's bond as to form and sufficiency of surety and in case of any doubt shall require additional security."

Section 107.070 provides:

"Whenever any officer of this state or of any department, board, bureau or commission of this state, or any deputy, appointee, agent or employee of any such officer, or any officer of any county of this state, or any deputy, appointee, agent or employee of any such officer, or any officer of any incorporated city, town, or village in this state, or any deputy, appointee, agent or employee of any such officer; or any officer of any department, bureau or commission of any county, city, town or village, or any deputy, appointee, agent or employee of any such officer; or any officer of any district, or other subdivision of any county, or any incorporated city, town or village, of this state, or any deputy, appointee, agent or employee of any such officer, shall be required by law of this state, or by charter, ordinance or resolution, or by any order of any court in this state, to enter into any official bond, or other bond, he may elect, with the consent and approval of the governing body of such state, department, board, bureau, commission, official, county, city, town, village, or other political subdivision,

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to enter into a surety bond, or bonds, with a surety company or surety companies, authorized to do business in the state of Missouri and the cost of every such surety bond shall be paid by the public body protected thereby."

Your question requires interpretation of the above statutes. The basic rule of statutory construction is to seek the intention of the law makers and if possible effectuate that intention and to ascertain the legislative intent from the words used, if possible, and ascertain from the language used its plain and rational meaning. State ex rel Jones v. Ralston Purina 358 S.W.2d 772.

We are enclosing herewith an opinion issued by this office on April 4, 1939 to Honorable W. J. Melton, Charleston, Missouri, holding it is not mandatory on county courts to pay the premium on surety bonds given by the county collector but if the county collector gives a surety bond with the consent and approval of the county court to pay the premium, the entire premium is to be paid by the county and not prorated among the several agencies for which the taxes are collected. We believe the same legal principles are involved in the question now under consideration.

Under Section 65.460 supra, the township collector is required to give bond to the satisfaction of the county court equal to one-half of the largest amount collected during any one year immediately preceding his election or appointment, that he will faithfully and punctually collect and pay over all state, county, township and other revenue, including school taxes that may become due and collectible during his term of office, and the county court or township board shall annually thereafter determine the sufficiency of such bond.

Under this statute, the bond is required to be payable to the state of Missouri. The sufficiency of the amount of the bond and of the surety is to be approved by the county court. Under this statute, the township collector may give a personal bond, it need not be a surety bond.

The township collector is an elected official as is a township officer, Section 65.110 RSMo. He is the person that is required to give the bond. A township is a subdivision of a county. State ex rel Halferty v. Kansas City, 145 S.W.2d 116. Under Section 107.070, supra, any officer of a subdivision of a county may elect, with the consent of and approval of the governing body of such subdivision, to give a surety bond with the consent of and approval of the governing body, the cost to be paid by the body protected thereby. The governing body of the township is the township board, consisting of the township trustee and two members elected, Section 65.290 RSMo. Their consent to the giving of the

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surety bond and for the payment of the premium would have to be obtained before a surety bond could be given. *Berry v. Linn Co.*, 165 S.W.2d 502.

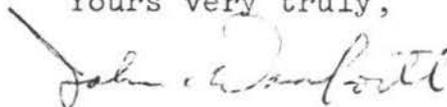
If the governing body agrees with the officer to accept the surety bond, and to pay the premium, the political subdivision it represents is obligated to pay the premium in full and it is not to be prorated among the different agencies or subdivisions protected thereby. *Motley v. Callaway County*, 149 S.W.2d 875.

CONCLUSION

It is the opinion of this office that a township board may consent to pay the cost of a surety bond of the township collector. Such consent is discretionary with the township board and, if it is not given, the township collector must pay the cost of such bond whether it be a personal or surety bond.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosure:

Op. 4-4-39, Melton