



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

March 18, 1974

OPINION LETTER NO. 127

Honorable Arthur T. Stephenson
Prosecuting Attorney
Pemiscot County Courthouse
Caruthersville, Missouri 63830

Dear Mr. Stephenson:

This is in response to your request for an opinion from this office in regard to the compensation the county treasurer is entitled to receive under Section 246.050, RSMo, for receiving, preserving, and paying out funds of drainage districts organized by the county court. You state that the incumbent county treasurer has been the duly elected county treasurer for the past 10 years and as county treasurer, has handled funds of county drainage districts pursuant to Chapter 246, RSMo. You further state that he has never been compensated for this service nor has he ever received any fee pursuant to Section 246.050, RSMo 1969. You state that it is your opinion the county treasurer is entitled to be compensated for his duties rendered to the drainage districts pursuant to Section 246.050, RSMo, for the past 5 years to be paid from the present funds of the various drainage districts.

Section 246.050, RSMo, provides:

"County treasurers for receiving, receipting for, preserving and paying out funds of drainage . . . districts, shall receive one percent of sums paid out."

Section 516.120, RSMo, provides for the court actions which must be commenced within 5 years, including subdivision (2), "An action upon a liability created by a statute other than a penalty or forfeiture;"

Honorable Arthur T. Stephenson

It is our opinion that a claim by the county treasurer for recovery of compensation provided for under Section 246.050, RSMo, would be an action upon a liability created by statute under Section 516.120(2) and recovery limited to compensation due within the last 5 years. Kay v. Moniteau County, 134 S.W.2d 81 (Mo. 1939).

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General