

RELATING : I. TO PAYMENTS MONTHLY FOR SALARY
OF PROSECUTING ATTORNEY.

II. RELATING TO PAYING OR PROTESTING
WARRANTS BY COUNTY TREASURER.

10-19
October 10th, 1934



Hon. J. L. Huett
Prosecuting Attorney
Reynolds County
Centerville, Missouri

Dear Sir:

We acknowledge your letter of September 22nd in
which you state and inquire as follows:

"On July, 2nd, I was appointed by the
Governor to the office of prosecuting
attorney of this, Reynolds County, on
the first Monday of August, I filed with
the county court the abstract of fees
and also statement of my salary as is
required by law, the county court seems
to be very much confused by the new county
budget law that was passed by the general
assembly at its regular session, 1933,
with reference to the payment of the
salaries of the various county officers,
under this law and are not issuing war-
rants drawn on the treasurer for their
monthly salary.

Section 11314 R.S. 1929, fixes the salary
of the prosecuting attorneys in the various
counties of the state and also provides
that said salary "to be paid monthly upon
the warrant of the county court issued in
favor of the prosecuting attorney to the
county treasurer for that purpose."

I have advised the county court that it
is its duty to issue the salary warrants
as is provided by said Section 11314, and
in case there is not at the time sufficient
funds in the treasurer, that it is the duty
of the treasurer to protest said warrants
so that it may be paid in order of its
protest.

Now what I want, is your opinion to the
county court as to their duties in issuing
the salary warrants monthly to the prosecuting
attorney as is provided by the above section."

1.

After the budget has been filed with the County Treasurer, warrants may be protested by the Treasurer where there are no funds on hand to meet them without personal liability.

Section 8 Laws of Missouri, 1933, page 546, provides in part as follows:

"...After the county court shall have revised the estimate it shall be the duty of the clerk of said court forthwith to enter such revised estimate on the record of the said court and the court shall forthwith enter thereon its approval. The county clerk shall within five days after the date of approval of such Budget estimate, file a certified copy thereof with the county treasurer, taking his receipt therefor, and he shall also forward a certified copy thereof to the state auditor by registered mail. The county treasurer shall not pay nor enter protest on any warrant for the current year until such budget estimate shall have been so filed. (This shall not apply to warrants lawfully issued for accounts due for prior year, lawfully payable out of funds for prior years on hand.) If any county treasurer shall pay or enter for protest any warrant before the budget estimate shall have been filed, as by this act provided, he shall be liable on his official bond for such act...."

It appears from the above statute that a county treasurer may not pay nor enter protest on any warrant for the current year until such budget estimate shall have been filed with the treasurer. However, after the budget has been filed as provided therein, he may protest warrants.

Section 12171 Revised Statutes Missouri, 1929, provides as follows:

"No county treasurer in this state shall pay any warrant drawn on him unless such warrant be presented for payment by the person in whose favor it is drawn, or by his assignee, executor or administrator; and when presented for payment, if there be

no money in the treasury for that purpose, the treasurer shall so certify on the back of the warrant, and shall date and subscribe the same."

We find nothing in the Laws, 1933, that either repeals directly or by implication the above statute, and for that reason, say the treasurer may protest warrants under said section after the budget has been filed with him without becoming liable.

II.

Prosecuting attorneys shall be paid for their services out of the county treasury, monthly, upon the warrant of the county court issued in their favor to the county treasurer for that purpose.

Section 11314 Laws 1933, page 174, provides in part as follows:

"The prosecuting attorney shall receive for his services per annum, to be paid out of the County treasury,to be paid monthly upon the warrant of the County Court issued in favor of the prosecuting attorney to the County Treasurer for that purpose..."

It appears from the above statute that it is the duty of the county court to issue monthly to the prosecuting attorney a warrant drawn in his favor, upon the County treasurer for one twelfth of his annual salary, regardless of whether there is money in said fund to pay same.

Very truly yours,

W. W. Barnes

Asst. Attorney General

APPROVED:

Attorney General