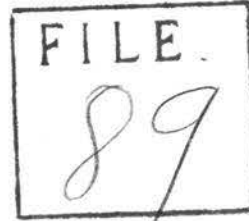


TOWNSHIP ORGANIZATION: Governor may order audit of
township under Section 13105
R. S. Missouri, 1939.

March 4, 1942

Hon. William S. Thompson
Prosecuting Attorney
Mercer County
Princeton, Missouri



Dear Sir:

This will acknowledge receipt of your request for
an opinion, which reads as follows:

"Will you please give me your opinion
on the following: Section 13105 R. S.
M. for 1939 provides as follows: 'The
Governor may at any time, when in his
judgment the public interest of the
state will be conserved, select compe-
tent auditors or accountants to audit
the accounts of any department, office,
commission, board, bureau, institution,
or any subdivision of the state; also
road districts, school districts, town-
ships, municipalities and counties re-
ceiving for or from the state any money.'

"The township board and other residents
of Lindley Township, Mercer County, Mis-
souri, are of the opinion that the town-
ship books should be audited as they
believe the township funds are not being
properly handled and accounted for.

"Lindley Township receives private car
tax from the state and hence it appears
to me that the township would be entitled
to an audit under this Section of the
statutes.

"It was my opinion that the appointment of an auditor under this Section would properly be in the hands of the Governor, but I must have been in error as I have written the Governor and have received no response to my letter.

"Will you kindly give me your opinion as to whether or not Lindley Township is entitled to an audit of the township books under Section 13105 and if so what procedure to take in order to have an auditor appointed."

Section 13105 R. S. Missouri, 1939, reads as follows:

"The Governor may at any time, when in his judgment the public interest of the state will be conserved, select competent auditors or accountants to audit the accounts of any department, office, commission, board, bureau, institution, or any subdivision of the state; also road districts, school districts, townships, municipalities and counties receiving for or from the state any money."

Under the above Section it is specifically stated:

" * * * may at any time, when in his judgment * * * ."

Under the above section it is discretionary with the Governor and not mandatory to order an audit of any of the departments set out in this section. Generally, in statutes

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the word "may" is permissive only, and the word "shall" is mandatory. (State ex rel McKittrick v. Wymore, 119 S. W. (2d) 941.)

Section 11291 R. S. Missouri, 1939, provides that county courts shall apportion the private car tax to the townships for the use of said township in the permanent construction of roads.

Since Section 13105, supra, includes townships receiving any money from the State an audit may be ordered by the Governor.

CONCLUSION.

In view of the above authorities, it is the opinion of this department that the township books of Lindley Township may be audited by an auditor appointed by the Governor, under Section 13105 R. S. Missouri, 1939, but it is discretionary with the Governor as to whether or not he should order the audit.

Respectfully submitted

W. J. BURKE
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
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WJB:RW