

Opinion No. 53-5648

January 27, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Edward M. Hartman State Comptroller Santa Fe, New Mexico

{*35} On January 13 you requested an opinion as to what disposition should be made out of fees paid out by the Middle Rio Grande Conservancy District to the county treasurers of the counties within the district for the extra help required by the county treasurers' offices in collecting taxes for the district.

You state that one county within the district credits this revenue to the salary fund; another county uses the revenue to pay extra help directly, while in a third county the county to his regular salary from county treasurer receives revenue in addition funds. You also inform us that you have instructed the various counties from time to time to credit the revenue to the salary fund; however, this procedure is not being followed in all cases.

In checking the statutes we find that under § 77-2924, which reads as follows:

"The county treasurer of the county in which is located any portion of the lands of the district shall be and he is hereby constituted ex officio district treasurer of the district extending into his county, and the said county treasurer shall be liable upon his official bonds to indictment and criminal prosecution for malfeasance, misfeasance, or failure to perform any duty herein prescribed, as county treasurer or ex officio treasurer, as provided by law in either case as county treasurer."

county treasurers are made ex-officio district treasurers in the counties wherein is located any portion of the lands' of a conservancy district.

The procedure to be followed by the county treasurers is found in § 77-2928, sub-section 3, which reads as follows:

"Before any duties devolve upon the county treasurers under this act, the board shall consult them and agree upon the salaries for the extra clerical force, if any, required in their respective offices to carry out the requirements of the law by reason of the establishment of a district, and the said board shall provide for and pay said salaries to said clerk or clerks while engaged on the work of the district, which clerks shall be selected and appointed by each of said county officers for their respective offices. In case of disagreement as to the compensation of such extra clerical force, the matter shall be referred to the court for its determination."

It is clear from sub-section 3 of the above quoted statute that the Conservancy District Board shall consult with the county treasurer of each particular county wherein a

conservancy{*36} district or a portion there of is located in the county and agree upon the salaries for the extra clerical force which may be required to carry out the requirements of the law by reason of the establishment of a conservancy district, and provides that the board shall pay the salaries to said clerk or clerks while engaged on the work of the district. The clerk or clerks shall be selected and appointed by each of said county officers for their respective offices, and in case of disagreement as to the compensation of such extra clerical force the matter should be referred to the district court for its determination.

I trust that this fully answers your inquiry.

By: Hilario Rubio

Assist. Attorney General