

DRAINAGE DISTRICTS) Warrant bears interest from date of presentment
) and non-payment. Provision for interest from
) date non-effective.

January 19, 1950

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FILED
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Honorable Harry J. Revercomb
The State Senate
Jefferson City, Missouri

Dear Sir:

We have received your request for an opinion of this department,
which request is as follows:

"I would like to have an official opinion
from your office on the following set of
facts.

"You are doubtless familiar with the drain-
age district warrants issued in Southeast
Missouri counties. A sample of such a war-
rant is:

No. _____ The Treasurer of The
COUNTY OF _____
State of Missouri

PAY TO _____
DOLLARS

Out of any money in the Treasury appropria-
ted for Drainage District No. _____

Given at the Court House in _____, Mo.,
this day of _____

By Order of the County Court

ATTEST:

Clerk President

"In some instances such a warrant has stamped
upon its face the words

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'This warrant to draw interest from date at the rate of six per cent per annum.'

"In case such warrants are protested they have stamped upon the back the words

'The within warrant presented for payment and no money in the Treasury for this purpose.' January 15, 1949

County Treasurer'.

"Our question is

'When such a warrant is paid to the holder is interest paid from the date of issue or from the date of protest?'"

Section 12474, R. S. Missouri, 1939, provides:

"The law of this state, under which county warrants are issued, sold, transferred, assigned, presented for payment, and paid, shall apply to all warrants issued by any drainage or levee districts in Missouri organized under any existing, special or future law of this state."

The law has been long established in this state that county warrants draw interest from the date of presentment for payment and refusal of payment because of lack of funds therefor. In the case of Skinner v. Platte County, 22 Mo. 437, 1. c. 439, the court stated:

" * * * These county warrants do not bear interest until a demand is made for payment, and the treasurer's endorsement on the back of the non-payment because there are no funds.

"By the act of 1849, the county warrants are made redeemable according to their respective dates. The treasurers are to pay the oldest outstanding warrants first,

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and no interest is to be allowed on any warrant after the money has been received into the county treasury sufficient for its redemption; but the treasurer shall set apart and keep the money sufficient for such warrant until it is called for by the holder of such warrant. (Acts of 1849, p. 37.) * * * "

In the case of *Isenhour v. Barton County*, 190 Mo. 163, 88 S.W. 759, the court stated at 190 Mo., l. c. 170:

"County warrants are creatures of the statute, and can only be issued in accordance therewith, but when no rate of interest is prescribed upon their face, they bear interest at the rate of six per cent per annum, as provided by section 3705, Revised Statutes 1899, after presentation to the treasurer of the county by which issued, and failure to pay because of there being no money in the treasury for their payment. * * *"

In view of the foregoing, inasmuch as the Legislature has expressly provided that drainage district warrants shall be governed by the law applicable to county warrants, interest would be payable on the warrants only from the date of presentment.

However, the warrant in the case presented by you bears upon its face the statement, "this warrant to draw interest from date at the rate of six per cent per annum." Does this provision of the warrant change the general law regarding interest?

County court drainage districts are public corporations under the sole and exclusive charge and control of the county court. (State ex rel. *Applegate v. Taylor*, 224 Mo. 393, l. c. 471, 123 S.W. 892.)

The county court in its management of county affairs has only such powers as are granted and limited by law, and it must pursue its authority and act within the scope of its powers. (*Bradford v. Phelps County*, 210 S.W. (2d) 996, 999 (5).)

The same rule would be applicable to a county court in its management of drainage districts under its control. We find no

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statutory provision, authorizing a county court in drawing either county or drainage district warrants, to provide that such warrants shall draw interest from date. In the absence of any statutory authority for such interest, we are of the opinion that the county court is not empowered to provide for interest from date of warrants. Therefore, we are of the opinion that the provision on the face of this warrant does not effect the general rule regarding the time from which it should draw interest, to wit, upon presentment and non-payment.

CONCLUSION

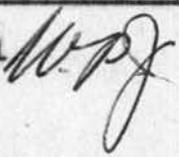
Therefore, this department is of the opinion that a warrant issued by a county court on behalf of a county court drainage district bears interest from the date of presentment and non-payment, and that the fact that the warrant bears on its face a notation that it bears interest at the rate of six per cent per annum from date is of no effect.

Respectfully submitted,

APPROVED:

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Attorney General



RRW/feh