

Irrigation District Warrants—Registration of by County Treasurer.

It is the duty of the County Treasurer to register Irrigation District warrants when there are insufficient funds on hand to pay them, in the same manner that he registers school district warrants.

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My dear Mr. Foss:

You have requested my opinion whether a County Treasurer is required by law to register Irrigation District warrants when there are no funds available for the payment thereof.

As you state the facts in this case, the Commissioners of an Irrigation District recently created have issued a District warrant covering the preliminary expenses of organization, which warrant the County Treasurer declines to register because there is as yet nothing in his office as a record of the creation of such district.

The County Treasurer of the county in which an Irrigation District is situated is the custodian of the funds of such district, and pays out the funds upon the order of the Board of Commissioners of the District, except as to payments on bonds and interest thereon, and payments upon any contract between the district and the United States. (Sec. 53, Chap. 145, Laws of 1915; Secs. 25 and 28, Chap. 153, Laws of 1921.) It is his duty to collect the taxes or assessments levied and reported by the Commissioners of such district at the same time and in the same manner as county and State taxes (Sec. 54, Chap. 146, Laws of 1909, as amended by Chap. 96, Laws of 1919), and divide the same into the various funds for which the taxes or assessments were levied. (Sec. 57, Chap. 145, Laws of 1915.)

All warrants for preliminary and organization expenses are to be paid from the general fund (Secs. 57 and 28, *supra*), and the Board of Commissioners of the district must make the levy and report the same to the County Clerk to be by him entered on the assessment book of the county. (Sec. 54, Chap. 146, Laws of 1909, and Sec. 22, Chap. 153, Laws of 1921.)

Section 2989, Revised Codes of 1907, reads as follows:

"When any warrant is presented to the Treasurer for payment, and the same is not paid for want of funds, the Treasurer must endorse thereon, 'not paid for want of funds' annexing the date of presentation and sign his name thereto; and from that time until paid the warrant bears six (6) per cent per annum interest."

This provision applies to school district warrants as well as to county warrants, and doubtless would be interpreted, in case of adjudication by the courts, as applying to warrants authorized to be drawn upon any fund of which the Treasurer is custodian, not otherwise specifically provided for by statute.

Under Section 38, Chapter 127, Laws of 1913, and Section 23, Chapter 153, Laws of 1921, we find authority for the Commissioners incurring indebtedness in any one year "for the purpose of organization, or for any of the immediate purposes of this Act, or to make or purchase surveys, plans and specifications, or for stream gauging and gathering data, * * * and may cause warrants of the district to issue therefor, bearing interest at the rate not to exceed six per centum." Thus the warrant issued by the Commissioners in the case before us is legally issued, providing it does not exceed the sum specified in said sections.

While there is no specific provision in the law requiring the registry of warrants of an Irrigation District by the County Treasurer, he is the legal custodian of the funds and must account for the same, and is liable under his official bond for their safe-keeping. He is required to register warrants drawn on all other funds of which he is custodian. In order to keep a proper record of the funds of an irrigation district, it would seem that the advisable thing for him to do would be to register such warrants when there are insufficient funds on hand to pay them. The law already provides that they shall bear interest.

Therefore, it is my opinion that the County Treasurer should register Irrigation District warrants in the same manner as he registers school district warrants.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.