

Fees, Clerk of the Court. Fees, Liability of a City for the Payment of.

A city is liable for the payment of fees in legal proceedings before the district court, the same as any other litigant.

Helena, Montana, December 1, 1909.

Hon. W. H. Trippet,
County Attorney,
Anaconda, Montana.

Dear Sir:

In response to your telephonic enquiry of this day, and in confirmation of what I said to you over the phone, I write you this communication. You stated that the clerk of the court, in looking up the question of delinquent fees due his office, has raised the question with respect to some fees apparently due from the city of Anaconda on various suits filed; the question which you have presented for opinion being whether or not a city is liable for the payment of fees to the clerk of the court, the same as any other litigant.

I have made careful examination of section 3145, revised codes of 1907, bearing expressly upon the subject of exemption of the payment of fees, and find by that section that:

"No fees must be charged the state or any county or any sub-division thereof, etc."

The question then of construction arises as to whether or not a city is properly to be considered a sub-division of the state or county as to exempt it from the payment of fees, and I am of opinion that the statute is not susceptible of any such interpretation. The character of "sub-division" referred to is a sub-division of the state or county for political or other purposes, such as a school district. This office has heretofore held that a school district in like case is a sub-division of a county under the statute, and therefore not required to pay filing fees.

See Opinions of Attorney General, 1905-06, p. 9.

Very truly yours,

ALBERT J. GALEN,

Attorney General.

Note.—The above opinion modified by opinion of Dec. 7, 1909, to Board of County Commissioners.