

Public Money, Payment Interest Upon. Interest, Payment of on Public Moneys. Treasurers, City or County, Payment, Interest to. Banks, Payment of Interest to Certain Officers.

It is not lawful for a city or county treasurer to demand or accept, or a depository bank to pay more than two and one-half per cent interest on public moneys of the cities or counties deposited in such banks.

August 25th, 1913.

Hon. H. S. McGraw,
State Examiner,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication of August 20th submitting the question as to

“Whether or not it is lawful, under the provisions of Chap. 88 of the Laws of the Thirteenth Legislative Assembly, for a city or county treasurer to demand or accept, or a depository bank to pay more than two and one-half per cent interest on public moneys of the city or county deposited in such bank under said act?”

In answer thereto I will refer you to Sec. 3003, as revised by said Chapter 88 of the Laws of the Thirteenth Legislative Assembly, which is in part as follows:

“Any bank or banks receiving such deposits shall, through its president and cashier, make a statement quarter annually of account under oath, showing all such moneys that have been deposited with such bank during the quarter, the amount of daily balances in dollars, and the amount of interest by such bank or banks credited or paid therefor, and showing that neither such bank nor any officer thereof, nor any person for it, has paid or given any consideration or emolument whatsoever to the treasurer or to any other person other than the interest provided for herein, for or on account of the making of such deposits with any such bank.”

Further than this, is the provision of our law which prohibits the making of any profit out of public funds by public officers. The portion of Chap. 88 above quoted is a direct limitation upon the interest to be collected by officers or paid by banks in which public funds are deposited.

You are, therefore, advised that it is not lawful for a city or county treasurer to demand or accept, or a depository bank to pay more than two and one-half per cent interest on public moneys of the cities or counties, deposited in such banks under the provisions of Chap. 88 of the Session Laws of the Thirteenth Legislative Assembly.

Yours very truly,

D. M. KELLY,
Attorney General.