

Opinion No. 82.**Bonds—Fiscal Agencies.**

HELD: Fiscal agencies designated by the Governor under authority of Section 5668.6, Revised Codes of Montana, 1935, may charge a reasonable fee for their services.

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June 20, 1939.

Mr. Harold K. Anderson
County Attorney
Helena, Montana

Dear Sir:

You have asked if the fiscal agency designated by the Governor of the State of Montana for the payment of bonds and interest coupons of the State of Montana and its political subdivisions may charge a reasonable fee for its services.

The authorization for the appointment of a fiscal agency is found in Section 5668.6, Revised Codes of Montana, 1935, which is as follows:

“The Governor of the State of Montana is hereby authorized to designate one or more banks or trust companies in each city in the United States where the bonds or interest coupons of any bonds issued by the State of Montana or any county, city, town, school district, irrigation district or drainage district of Montana, are made payable, as the fiscal agency for the State of Montana for the payment of such bonds and coupons.”

This statute specifically authorizes the designation of a fiscal agency but prescribes no compensation. In the appointment of a fiscal agent and the acceptance of its services by a political subdivision there would be an implied covenant on the part of such political subdivision to pay a reasonable fee as compensation for the services rendered. This would certainly be true in the instant case where said fees are prescribed by clearing house associations and were known to the officials of the political subdivision arranging for the designation of the fiscal agency. I am of the opinion that such a charge may be legally paid.