

Opinion No. 85.

**Cities and Towns—City Treasurer—
Salary.**

HELD: Any sum paid to a treasurer of a city of the second class in excess of \$2,000 as salary and compensation is an illegal expenditure.

June 21, 1939.

Hon. W. A. Brown
State Examiner
The Capitol

Dear Mr. Brown:

You have submitted the following:

"In one of the second class cities of Montana, the treasurer is paid a salary of \$1,800.00 per year. He is, however, also employed as financial receiving officer for the city water department and also paid a compensation in connection with that office. The combined compensation of the two positions exceeds the sum of \$2,000.00 per annum, which Section 5022, R. C. M., 1935, sets as the maximum salary of a city treasurer in second class cities.

"We shall be pleased to receive your opinion as to whether or not our examiners can properly take the position that the sum in excess of \$2,000.00 is an illegal expenditure."

Section 5022 reads:

"The annual salary and compensation of the treasurer must be fixed by ordinance, and must be for all services rendered by such treasurer in any capacity, and no treasurer must be allowed any percentages or fees in addition thereto. In cities of the first class, the annual salary of the treasurer must not exceed three thousand dollars, in cities of the second class must not exceed two thousand dollars, and in cities of the third class it must not exceed seven hundred dollars, and in towns it must not exceed five hundred dollars."

We see no escape from the statute. For second class cities it provides that the "salary and compensation" of the treasurer "for all services rendered" by him "in any capacity" must not exceed \$2,000. As if to make it an

absolute maximum, it adds that he shall be allowed no percentages or fees in addition thereto.

It is therefore our opinion that your examiners can properly take the position that the sum in excess of \$2,000 is an illegal expenditure.