

No. 410

COUNTY TREASURER, deputy's bond premium not county charge—OFFICERS—BONDS—COUNTY TREASURER, deputy need not be bonded, when—DEPUTIES

- Held:** 1. The premium on the bond of a deputy county treasurer is not a proper charge against the county.
2. A deputy county treasurer need not furnish a bond unless required by the board of county commissioners and then in such amount as said board prescribes, or unless the principal requires a bond to be furnished.

May 11, 1942.

Mr. Earl C. Ammerman
County Attorney
Park County
Livingston, Montana

Dear Mr. Ammerman:

You have asked this office (1) whether the premium on the bond of a deputy county treasurer is a proper charge against the county and (2) whether it is necessary a deputy county treasurer be bonded.

The answer to your first question seems to be clearly answered by the provisions of Section 6236 of the Revised Codes of Montana of 1935. This section makes the premium on bonds of public offices public charges but also includes the following limitation:

“ . . . provided, further, that the provisions of this section, making such premium a charge against the general fund of the state, county,

city, town or township shall not be construed to include any deputy, clerk or subordinate officer, where a bond is required to be furnished by the principal or body appointing the same."

Construing this section, a former attorney general held the official bond of an undersheriff is not a proper charge against the county. (Vol. 15, Opinions of the Attorney General, p. 124.)

The county officers who are required by statute to furnish bonds are enumerated in Section 466 of the Revised Codes of Montana of 1935, as amended by Chapter 66 of the Laws of 1939. No reference is made in that section to deputy county treasurers. Section 467 of the Revised Codes of Montana of 1935 indicates bonds may be required of other county officers than those enumerated, and provides:

"All county officers not herein enumerated shall give bonds in such amounts as shall be fixed by the board of county commissioners."

Under the provisions of Section 475 of the Revised Codes of Montana of 1935 the bond of the principal also covers the neglect, default, or misconduct of any deputy, clerk or employee appointed by or employed by the principal. It would seem the public is amply protected by the bond of the principal.

It is my opinion the premium on the bond of a deputy county treasurer is not a proper charge against the county. It is also my opinion a deputy county treasurer need not furnish a bond unless required by the board of county commissioners and then in such amount as said board provides, or, as is indicated by Section 6236 of the Revised Codes of Montana of 1935, unless the principal requires a bond to be furnished.

Sincerely yours,

HOWARD M. GULLICKSON
Attorney General