

ROAD DISTRICTS:
ROADS & BRIDGES:

issue bonds pursuant to Section 233.345, RSMo 1969, for the purpose of construction of a maintenance building for road machinery and equipment of the district.

A road district organized under the provisions of Sections 233.320 to 233.445, RSMo 1969, may

OPINION NO. 10

January 19, 1972

Honorable William J. Cason
State Senator, District 31
Room 415, Capitol Building
Jefferson City, Missouri 65101



Dear Senator Cason:

This is in reply to your request for an official opinion of this office concerning the validity of a bond election held pursuant to Section 233.345, RSMo, by the Mt. Pleasant Township Special Road District of Cass County, Missouri, when the proceeds of such a bond issue are to be expended for the construction of a maintenance building for such road district.

Special road districts may, of course, issue bonds pursuant to the provisions of Section 233.345, RSMo. Subsection 4 of Section 233.345 provides the purposes for which the proceeds of the bonds may be used, reading in part as follows:

" . . . The proceeds of the sale of such bonds shall be used for the purpose only of paying the cost of holding such election, and constructing, repairing and maintaining bridges and culverts within the district, and working, repairing, maintaining and dragging public roads within the district."

Since this language does not specifically provide for the construction of a maintenance building, the question is whether such is implied or incidental to constructing or improving roads, bridges and culverts in the district or township.

We assume, in answering this question, that the purpose of the maintenance building will be for the storage and maintenance of machinery and equipment necessary for the construction or improvement of roads, bridges and culverts.

The rule in interpreting statutes such as Section 233.345 is that a power given carries with it, incidental or by implication, power not expressed, but necessary to render effective the one

Honorable William J. Cason

that is expressed. State ex rel. Wahl v. Speer, 284 Mo. 45, 223 S.W. 655, 660 (banc 1920) cited in Sherman Township, Cass County v. L. J. Farr, 406 S.W.2d 630, 632 (Mo. 1966).

The court in Sherman Township, Cass County, supra, stated such rule in holding that a bond issue held pursuant to Sections 233.450 through 233.470 was valid when a portion of the proceeds were to be used for the purchase of necessary road equipment in order to accomplish road improvements. The court stated, l.c. S.W.2d 633:

". . . However, since we have held that the township has the discretionary authority to do the work without letting a contract, and since there is no statutory provision prohibiting the use of bond funds for the purchase of the necessary equipment, we think that under the facts and circumstances here presented the authority to so purchase said equipment must be reasonably implied."

We also refer you to Attorney General's Opinion No. 141, August 11, 1969, Reid, citing the same rule from State ex rel. Wahl v. Speer, supra, to hold that a county court may use the road and bridge fund to purchase real estate in the county for the purpose of storing machinery used to keep up and build county roads and bridges.

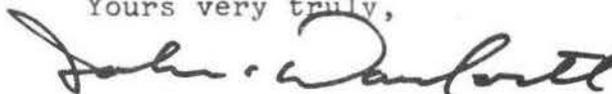
Since there is implied authority to purchase necessary equipment from bond proceeds for road construction and improvement, it follows that there is also the implied authority to construct a maintenance building to store and maintain such equipment.

CONCLUSION

Therefore, it is the opinion of this office that a road district organized under the provisions of Sections 233.320 to 233.445, RSMo 1969, may issue bonds pursuant to Section 233.345, RSMo 1969, for the purpose of construction of a maintenance building for road machinery and equipment of the district.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Walter W. Nowotny, Jr.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 141
8-11-69, Reid