

POWER of the board of commissioners of ROAD DISTRICTS
to levy and collect tax without a vote of the taxpayers.
(Not under township organization) Section 8067 R. S. Mo. 1929.

February 17, 1933.

FILED

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Hon. J. R. Gideon
Prosecuting Attorney
Taney County
Forsyth, Missouri

Dear Mr. Gideon:

Answering your letter of February 15th relative
to the construction of Section 8067, R. S. Mo. 1929,
wherein you ask:

"I would like to have your opinion as to
whether Commissioners of such road dis-
tricts have the right under this law, with-
out a vote of the taxpayers of said district
to make and collect such taxes for general
road work and for maintaining the road and
bridges in such districts."

Section 8067, R. S. Mo. 1929, provides as follows:

"The board of commissioners of any district
so incorporated shall have power to levy,
for the construction and maintenance of
bridges and culverts in the district, and
working, repairing and dragging roads in
the district, general taxes on property
taxable in the district, and shall also
have power and authority and be its duty
to levy special taxes *****"

From the foregoing section it is very clear that
the legislature intended to give the commissioners exclusive
power in the matter to make the levy, etc.

This is further upheld in the case of Harris v.
Bond, 244 Mo. 698 l. c., where the court says,

"It is the consensus of opinion in this
country that the Legislature in the creation

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of municipal and public corporations of every description is absolute and unlimited, in the absence of some specific State or Federal constitutional provision restricting such powers.

The Legislature is vested with the whole power of the State in the absence of some such constitutional limitation; and may establish any public or municipal corporation it deems necessary or expedient in the public interest.

It may also confer upon such corporations such public power and authority as it may deem wise and best. *****

We are, therefore, of the opinion, that the various statutes mentioned and acts of the Legislature referred to, authorizing the creation of these special road districts, are not unconstitutional, null and void, but are upon the other hand valid existing laws of the State."

This opinion is further strengthened by several decisions in this State, and especially in the case of *Embree v. Road District*, 257 No. 593, l. c. 610 and 611; also in *Rainey v. Cape Girardeau*, 255 No. 514.

This opinion is further strengthened by a quotation from the case of *State v. Becker*, 49 (2nd) S. W., p 155, where the court uses this expression,

"**** the power thus delegated or granted to one state agency (as in this case the board of commissioners) is by necessary implication at the same time withdrawn from the other agency."

It being withdrawn from the citizens and expressly given to the board of commissioners of an incorporated district, would necessarily give them, the board of commissioners, the exclusive control or power, without the vote of the taxpayers of said district, to make and collect such taxes for general

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road work and for maintaining the roads and bridges in
such district as may to them seem proper and right.

Very respectfully,

GEO. B. STROTHER
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General.

GBS:EG