

STATE HIGHWAY REFUNDS.
ROADS AND BRIDGES. ✓
COUNTIES.

Township is not entitled to share in the proceeds on the refund by the State Highway Commission on account of bridges built by the proceeds of a County bond issue.

8127 RS Nov 1933

11-7
October 23, 1933



Honorable Minor C. Levesay
Prosecuting Attorney
Versailles, Missouri

Dear Mr. Livesay:

This Department acknowledges receipt of your letter dated September 27, 1933, as follows:

"On June 10 I wrote to your office requesting an opinion on the above question. June 15 you asked me for additional information. I sent this information but I have heard nothing from you so I am assuming that that letter must have been lost.

Red Line Roads as used in my letter means that the County floated a bond issue and each township was allotted its share of the money, based on its valuation, for the purpose of building roads. The particular township to which I refer used its allowance to build a bridge. This bridge was taken over by the State Highway as a part of the Farm to Market system.

This county has never been under the township organization law. This township feels that since it did not build roads with the money it received from the bond issue but built a bridge which was taken it is now entitled to a refund to be used in building roads.

It is my opinion that Sec. 8127 applies only where the township expends money and not in the case of the County

alloting them money. In other words, the County might demand a refund but not the township. However some of the citizens would like your opinion."

We did not receive a reply to my letter to you dated June 15, 1933, the same must have gone astray in the mails, hence our delay in answering your letter.

Section 44a of Article IV of the Constitution of the State of Missouri in part provides:

"The proceeds of the sale of the seventy-five million dollars (\$75,000,000.00) of additional bonds herein authorized shall be expended * * * * for the following purposes: * * * * to reimburse the various counties and political or civil subdivisions (including road districts) of the state for money expended by them in the construction or acquisition of roads and bridges now or hereafter taken over by the state as permanent parts of the State Highway System. * * * * *"

in part:

Section 8127 Revised Statutes Missouri 1929, provides

"Counties or other civil subdivisions shall be reimbursed for work done in constructing such part of a road or roads including bridges* * * * which may become a part of the State Highway System.* * * * Any portion or all of such reimbursement shall be made either in the form of additional roads, or in cash, at the election of the authorities of the county or civil subdivision to which reimbursement may be due.* * * * If the authorities of the county or civil subdivision elect to have all or any part of such reimbursement made in cash, all or any portion of such reimbursement made in cash may be used for the purchase of rights-of-way for state highways within such county or civil subdivision.* * * * And the counties or civil subdivisions wherein said roads are constructed or to be constructed, shall have all the benefits of this section. * * * * *"

October 23, 1933

Section 8132 defines the term "civil subdivision" as used in the State Highway Act, as follows:

"Whenever in the preceding section the words 'civil subdivision' are used they shall be deemed and taken to mean a county, township, road district, or other political subdivision of the state or quasi public corporation having legal jurisdiction of the construction and maintenance of public roads."

Webster defines the word "reimburse" as meaning,

"To make restoration or payment of an equivalent to; to pay back to; to re-pay."

It is clear that Section 8127 above referred to, contemplates the raising of money not only by a county as a county but by other civil subdivisions of the state within the boundary of a given county. We know as a matter of common knowledge that townships, in counties under township organization law in this state as well as special road districts, have raised and expended funds for the purpose of constructing and maintaining roads that were then, or thereafter were, parts of the state highway system. However the proceeds of the bond issue may have been allotted, the fact remains that the money received from the bonds was received from county bonds and from the county as a civil subdivision of the state. The vote on the bond issue was taken in the county as a whole and the result of the vote on the bond issue determined thereby. None of the townships within the county, strictly speaking, expended its own funds in disbursing the money that came to it from the county bond issue and therefore is not entitled to be reimbursed for something it did not pay out.

It is the opinion of this Department that any refund on account of moneys spent, the proceeds of the county bond issue, would properly go to the county as a civil subdivision of the state.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General.

GL:LC