

TOWNSHIP BOARD HAS AUTHORITY TO APPROPRIATE MONEY from the General Road Fund to secure right-of-way and turn same over to State Highway Commission for construction and maintenance of state highways thereon.

March 1, 1933. ✓

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Hon. Merrill E. Montgomery  
Prosecuting Attorney  
Sullivan County  
Milan, Missouri

Dear Sir:

Replying to your letter of February 23, 1933,  
wherein you say,

"The people of Sullivan County are confronted with the proposition of whether or not a Township Board has the authority to appropriate money from the general road fund of their township treasury to the State Highway Commission to use for the purposes of condemnation in securing the right-of-way for "Farm to Market Roads", or for "Supplementary Highways"?

Under Sections 12256 and 12257 R. S. No. 1929, if construed alone, it would seem doubtful if the Township Board had the power, but in the light of Sections 8131 and 8133 R. S. No. 1929, their powers and duties with reference to road funds in the township treasury seems to be very materially changed and enlarged upon.

Section 8131 R. S. No. 1929, says,

"Any civil subdivision as defined by this article shall have the power, right and authority, through its proper officers, to contribute out of funds available for road purposes all or a part of the funds necessary for the purchase of rights-of-way for the state highways, and convey

such rights-of-way, or any other land, to the State of Missouri to be placed under the supervision, management and control of the state highway commission for the construction and maintenance thereupon of state highways and bridges.  
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Section 8132, R. S. No. 1929, says,

"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."

The last two sections, which were enacted in 1929, undoubtedly modify and enlarge the scope of Sections 13256 and 13257 R. S. No. 1929, and give the Township Board powers that they did not possess before.

Sections 8131 and 8132 R. S. No. 1929, expressly give this authority to the township board, so in reality it is not in conflict with the first two sections referred to.

See *Harris v. Bond* 244 Mo. 1. c. 688, which states,

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

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

Since the Legislature has seen fit and proper by Section 8131 R. S. No. 1929, to give the township board through its proper officers the right "to contribute out of funds available for road purposes all or part of the funds

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necessary to purchase of rights-of-way \*\*\*\*\*;  
we are of the opinion that it is legal and constitutional  
for them to do so.

Yours very truly,

  
GEO. B. STROTHER  
Assistant Attorney-General.

APPROVED: \_\_\_\_\_  
ROY McKITTRICK  
Attorney-General.

GSS:RG