

SPECIAL ROAD DISTRICTS:-Trustees have authority to collect debts due and district and to pay debts owing by the district, upon dissolution.

2-24  
February 23, 1934.



Mr. Elliott M. Dampf,  
Prosecuting Attorney,  
Jefferson City, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"Would appreciate your opinion as to whether in the dissolution of a special road district, the trustee named by the county court has the authority to pay labor bills with the money he receives through payment of the 1933 taxes.

Also, whether the county court must allow a bill rendered by the county assessor for making a transfer book of 956 transfers at 10¢ per name."

I

You inquire whether a trustee named by the county court has authority to pay labor bills of a dissolved road district with money received from 1933 taxes. Section 8083, R. S. Mo. 1929, provides as follows:

"No dissolution of such road district shall invalidate or affect any right accruing to such road district or to any person, or invalidate or affect any contract entered into or imposed on such road district."

Section 8084, R. S. Mo. 1929, provides as follows:

"Whenever the county court shall dissolve any such road district, the said county court shall appoint some competent person to act as trustee for the road district so dissolved, and such trustee, before entering upon the discharge of his duties, shall take and

subscribe an oath that he will faithfully discharge the duties of his office, and shall give bond with sufficient security to be approved by the court, to the use of such disincorporated road district, conditioned for the faithful discharge of his duty."

Section 8085, R. S. Mo. 1929, provides as follows:

"The trustee shall have power to prosecute and defend to final judgment all suits instituted by or against the road district, collect all moneys due the same, liquidate all lawful demands against the same, and for that purpose shall sell any property belonging to such road district, or so much thereof as may be necessary, and generally to do all acts requisite to bring to a speedy close all the affairs of the road district, and for that purpose, under the order and direction of the county court, to exercise all the powers given by law to said road district."

Section 8086, R. S. Mo. 1929, provides as follows:

"When the trustee shall have closed the affairs of the road district, and shall have paid all debts due by said road district, he shall pay over to the county treasurer all money remaining in his hands, and take receipt therefor, and deliver to the clerk of such county court all books, papers, records and deeds belonging to the dissolved road district."

Under the foregoing Sections, dissolution of the district shall not affect any right accruing to any person on account of any contract entered into by any district. Whenever the county court shall dissolve a district, it shall appoint some competent person to act as trustee, and the trustee's duties are to collect the money due the same and belonging to the district, and pay all the debts owing by the district, and the balance of the money shall be turned over to the county treasurer. We therefore conclude that the above statutes make it the duty of the trustee of the dissolved district to collect all funds due the district, taxes or otherwise, and pay all bills, including labor bills.

It is therefore our opinion that the trustee of a dissolved road district has the authority to pay labor

bills owed by the district with money which he receives through the payment of 1933 taxes.

II

You next inquire whether the county court must allow a bill rendered by the county assessor for making a transfer book. We do not find that the statute authorizes the payment of any fee for this service, and the general rule is that unless the officer claiming the fee can point out the statute which entitles him to the collection of the fee, no fee can be collected.

In Sanderson v. Pike County, 195 Mo. 590, 605, it is said:

"It is well-settled law in this State that the right to compensation for the discharge of official duties is purely a creature of the statute, and that the statute which is claimed to confer that right must be strictly construed. The right of a public officer to compensation is derived from the statute, and he is entitled to none for services he may perform as such officer, unless the statute gives it." (Citations omitted).

It is therefore our opinion that unless the statute gives to the assessor the right to collect for this service no fee is due him. We have been unable to find any such statutory authorization, and if you can point out any statute which deals with the subject we shall be glad to construe it.

Very truly yours,

FRANK W. HAYES,  
Assistant Attorney General.

APPROVED:

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Attorney General.

FWH:S