

SPECIAL ROAD DISTRICTS: May spend bond money for purchase of machinery.

January 28, 1936.

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Hon. G. Logan Marr,
Prosecuting Attorney,
Morgan County,
Versailles, Missouri.

Dear Sir:

This will acknowledge receipt of your inquiry which is as follows:

"We have in this County a special road district organized under the provisions of Sections 8024-8060, 1929 statutes.

"The special road district voted a bond issue under sections 7960-7964 of the 1929 statutes. Can a special road district organized under Sections 8024-8060 of the 1929 statutes?

"The money obtained from this bond issue be used to purchase road building machinery for the special road district?

"Can the road commissioners of this special road district buy from one of the commissioners materials for use in road building, such as concrete culverts made on the farm of the commissioners? The purchase price comes out of the funds of the district, and is allowed by the commissioners.

"One of the special road commissioners is a blacksmith. He does all the blacksmithing for the special road district, such as repairing the tools and sharpening the tools. Can this commissioner collect

for his work and labor out of the moneys of the district, when his account is allowed by the other commissioners?

"One of the special road commissioners of this district draws days wages by his work on the road along with the other road laborers. He helps load rock, keeps time of the laborers, including himself, he acts as a foreman, and directs the work done by himself and others. His days wages comes out of the moneys of the special road district- his labor bill is allowed along with the other laborers by the commissioners of the special road district. I suppose that by 'commissioners' it is meant that he is one of the commissioners that pass on his wages for work and labor performed. Can such a commissioner draw wages for day labor out of the proceeds of the special road district road funds?"

The three first paragraphs of your inquiry we believe to be answered by former opinions of this office, copies of which are enclosed herein, to-wit, one dated January 7, 1936, to Hon. W. Ed Jameson, President, Board of Managers, State Eleemosynary Institutions, Jefferson City, Missouri; one dated September 17, 1934, to Hon. Arch M. Skelton, Prosecuting Attorney of Lafayette County, and one dated January 26, 1935, to Hon. Elliott M. Dampf, Prosecuting Attorney of Cole County.

We construe your other inquiry to be this: Has the board of commissioners of such eight-mile special road district authority to purchase for the special road district machinery suitable to be used in carrying on the work of repairing, maintaining and building roads on behalf of the district, and pay for said machinery with the money coming to said district by reason of the issuance and sale of bonds by the district?

Section 8033, R. S. Mo. 1929, provides as follows:

"Said board shall have sole, exclusive and entire control and jurisdiction over all public highways within its district outside the corporate limits of any city or village therein to construct, improve and repair such highways, and shall remove all obstructions from such highways, and for the discharge of

these duties shall have all the power, rights and authority conferred by general statutes upon road overseers, and said board shall at all times keep the public roads under its charge in as good repair as the means at its command will permit, and for this purpose may employ hands at fixed compensations, rent, lease or buy teams, implements, tools and machinery, all kinds of motor power, and all things needful to carry on such road work: Provided, that the board may have such road work or any part of such work done by contract, under such regulations as the board may prescribe."

Section 8047 thereof provides:

"The fund received from the poll and road tax of said district shall constitute a general district road fund, and shall be disbursed only as hereinbefore provided, and shall be used only for working, repairing and improving the public roads of such district as herein provided, and for no other purpose; and no part thereof shall be used for paying damages and costs for opening new roads, but all such damages and costs for opening new roads paid by the county shall be paid out of the other county revenue, except as this article may otherwise provide."

It will be noted that Section 8047 does not say that the funds received from poll and road tax of the district shall be used only for working, repairing and improving the public roads, but it says that they constitute a general district road fund and shall be disbursed only as in this article (Article 9, Chapter 42) provided, which includes the rights and authority set forth in Section 8033, which latter section authorizes the board to "rent, lease or buy teams, implements, tools and machinery, all kinds of motor power, and all things needful to carry on such road work."

When a bond issue is voted by the district and money is received by the district from the sale of such bonds, we know of no provision of law which prohibits the expenditure of

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such funds in the purchase of road building machinery for the special road district. The money arising from the sale of the bonds, which is in effect a mortgage upon the property located within the special road district, is in law treated on the same basis, for the purpose of such purchase, as is the money coming to said special road district by reason of the levy and collection of taxes on the property located within said district under the general property tax law.

CONCLUSION

It is our opinion that the money owned by such special eight-mile road district as the result of a bond issue by said district may be legally expended by the district for the purchase of road building machinery to be used in such special road district.

Yours very truly,

DRAKE WATSON,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

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