

SPECIAL ROAD DISTRICTS:) Special road district not liable for
ROADS AND BRIDGES:) tort actions or if employee injured
or killed while in line of duty.

October 10, 1936.

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Honorable Rice Maupin
Commissioner
Glasgow Eight Mile Road District
Glasgow, Missouri

Dear Sir:

This is to acknowledge your letter as follows:

"The road work and maintenance of the rural roads of Howard County is divided into 5 Districts. Roads adjoining Glasgow are in what is known as "Glasgow Eight Mile Road District" is managed by three non-salaried Commissioners, Rice Maupin, Laurence Jackson, and Fred Ferguson.

"For several years past we have been carrying Compensation Insurance and also Public Liability. We would like very much your opinion as to whether the District or County would be legally liable under the Compensation Laws of Missouri, should one of our Employees be injured or killed while in line of duty?"

We have not been able to find any case directly in point in order to answer your question but believe we can reach a correct conclusion by the principles of analogy. There are a great many cases decided by our

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appellate courts to the effect that a special road district is not liable for tort actions. Lamar v. Bolivar Special Road District, 201 S. W. 890, l. c. 892, and cases cited.

In Sharp v. Kurth et al., 245 S. W. 636, the St. Louis Court of Appeals said (l. c. 638):

"Absent legislation making special road districts liable for its negligent acts, it is established by a wealth of authority in Missouri that such districts are public corporations and are quasi political subdivisions of the county and the State and are not liable for negligence in the building and construction of public works, such as roads and bridges.

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"It is likewise clear that the individual defendants, being special commissioners of the road district, are not liable for their mistakes of judgment or their acts of negligence in doing work."

From the above we conclude and it is our opinion that the Eight Mile Road District, the county, or the commissioners, would not be legally liable if an employee was injured or killed while in the line of duty. Bush v. State Highway Commission of Missouri, 46 S. W. (2d) 854.

You request as to whether or not it is necessary for you to comply with the Workmens' Compensation laws of Missouri.

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Chapter 28, R. S. Missouri, 1929, and amendments, relate to "Workmen's Compensation." Section 3303 provides in part as follows:

"Sections 3300, 3301 and 3302 of this chapter shall not apply to any of the following employments:

"First: Employments by the state, county, municipal corporation, township, school or road, drainage, swamp and levy districts, or school board, board of education, regents, curators, managers, or control commission, board or any other political subdivisions, corporation, or quasi-corporation thereof."

From the above section it is our opinion that the Eight Mile Special Road District is not liable under the Workmen's Compensation laws of Missouri.

In this opinion we have only undertaken to answer the question of the liability or non-liability of the Eight Mile Special Road District, without regard to whether or not it was proper for such district to have Workmen's Compensation. Suffice it to say that Section 3304, R. S. Mo. 1929, provides that the word "employer", as used in said chapter 28, would include the Glasgow Eight Mile Road District if it elected to accept the provisions of said chapter by law or ordinance. We do not know whether the Glasgow Eight Mile Road District had authority, or has authority, to accept the provisions of the Workmen's Compensation Act. If it accepted the provisions of the chapter relating to Workmen's Compensation, then, of course, compliance thereto is necessary.

Yours very truly,

James L. HornBostel
Assistant Attorney-General

APPROVED:

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

JLH:EG