

TOWNSHIP BOARDS: Roads and bridge money may be spent on W. P.A. projects in lieu of usual maintenance demands.

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April 30, 1936.

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



Dear Sir:

We acknowledge your request for an opinion dated April 25, 1936, which reads as follows:

"I am interested in an opinion from your office in regard to the legality of acts of a township board in appropriating money from their revenue raised by taxation for their Road and Bridge Fund, to aid in the construction of WPA projects.

"As I understand the situation in our county, which is a county having township organization, township boards are in many instances appropriating money from the Road & Bridge Funds to be used on WPA projects. Most of the projects in question are for the purpose of crushing rock and hard-surfacing a road within the township. I find that taxpayers within the township object on the grounds that it depletes the Road & Bridge Fund to such an extent that the township is unable to furnish the usual maintenance for their roads.

"I thought perhaps your office had ruled on this question heretofore, and if you have, I would appreciate a copy of your opinion."

Article IX, Chapter 86, R.S. Mo. 1929, provides for a Township Board of Directors and their duties. Section 12299 R. S. Mo. 1929, of this Article, reads:

"In each township in this state, organized under the provisions of this chapter, there shall be a board

of directors, composed of the township trustee and members of the township board, whose duty it shall be: First, to audit all accounts of township officers for services rendered as such officers except the township assessor, for services as such assessor; second, to audit all other accounts or demands legally presented to them against the township; third, to levy all taxes for township, road and bridge purposes, and all other duties provided by this chapter for the township board of directors to perform."

Section 8149 R. S. Mo. 1929, provides:

"All road laws of this state shall apply to counties under township organization, unless by their terms limited to counties not under township organization, or in conflict with the provisions of this law."

Section 7946 R. S. Mo. 1929, provides:

"Whenever any public money, whether arising from taxation or from bonds heretofore or hereafter issued, is to be expended in the construction, reconstruction or other improvement of any road, or bridge or culvert, the county court, township board or road district commissioners, as the case may be, shall have full power and authority to contract, reconstruct or otherwise improve any road, and to construct any bridge or culvert in such county or other political subdivision of the state, and to that end may contract for such work, or may purchase machinery, employ operators and purchase needed materials and employ necessary help and do such work by day labor. The county court, the township board or road district commissioners may accept donations of labor or materials from interested parties either on road improvements or bridge constructions and said authority may employ labor or contractors to complete said

Improvements. Before beginning the construction or improvement of any road, bridge or culvert by day labor or by contract, the plans, specifications, estimates of drainage, maps, profiles, estimates of cost and the specific location of such road, bridge or culvert shall be filed in the office of the county clerk, township clerk, or commissioner or road district, as the case may be, and before becoming effective shall be approved by said county, township or road district authorities. On completion of the work a detailed statement of the cost shall be filed as in the next succeeding section provided, and shall be recorded in the book wherein are recorded contractors' bids; when any pay rolls or construction accounts are certified to as correct by the engineer in charge of the work, the bills for the same shall be passed upon by the county court, township board or district commissioner, and if found correct, shall be paid: Provided, that all such work shall be done under the supervision and direction of the county highway engineer, or some other competent engineer employed by the county court or other proper authority, at such compensation as may be agreed upon, payable wholly or in part out of the particular fund to be expended on said construction, reconstruction or other improvement."

CONCLUSION.

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The Township Board of Directors are the auditing officers empowered with the duty to audit legal demands against the township. They are empowered also with the duty to levy taxes for township road and bridge purposes.

The provisions of Section 7946, supra, are under the general road laws of this State and apply in counties under township organization. Where your board has raised

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money for road and bridge purposes, it is specifically authorized to construct roads in the township, to contract for such work, to purchase machinery, employ operators and purchase needed materials.

We are of the opinion that the Board has the power to appropriate money from the road and bridge fund of the township to be used on W. P.A. projects, where said W. P. A. projects are identified as road or bridge projects within the township.

We are of the opinion that a W. P. A. Project to crush rock and hard surface roads within the township is purely a township road and bridge purpose for which the money was originally levied, and for which the Board in its discretion can spend the money in lieu of spending it on the usual maintenance demands.

Respectfully submitted

WM. ORR SAWYERS  
Assistant Attorney General.

APPROVED:

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

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