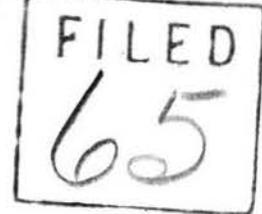


ROAD DISTRICTS:
MUNICIPAL CORPORATIONS:

City of the fourth class cannot
organize itself into a special road
district under Section 7047, R. S.
Mo. 1929.

August 30, 1939



Mr. W. L. Mulvania
City Attorney
Rock Port, Missouri

Dear Sir:

This department is in receipt of your request for
an official opinion which reads as follows:

"As the attorney for the City of Rock
Port I have been requested by the
Mayor and Board of Aldermen of this
city to ascertain the opinion of your
department upon the question of whether
the City of Rock Port may in and of it-
self organize itself into a special
road district pursuant to the pro-
visions of Article Nine, Chapter 42
of the Revised Statutes of Missouri,
1929, beginning with section 8024
without including in said proposed
district any territory beyond the
limits of the City."

Article IX, Chapter 42 of the Revised Statutes of
Missouri, 1929, provides for the organization of a
special road district not exceeding eight miles square
wherein is located a city, town or village containing
less than one hundred thousand inhabitants.

Section 8033 of said Act provides in part as fol-
lows:

"Said board (of commissioners of the
road district) shall have sole, ex-
clusive and entire control and juris-
diction over all public highways
within its district outside the cor-

Mr. W. L. Mulvania

(2)

August 30, 1939

porate limits of any city or village

*****"

Section 8034, R. S. Missouri, 1929, provides in part:

"Said board shall have authority to expend not more than one-fourth of the revenue which may now or which may hereafter be paid into its treasury for the purpose of grading and repairing any roads or streets within the corporate limits of any city within said special road district

*****"

Section 8051, R. S. Missouri, 1929, provides as follows:

"Said boards may repair, grade, gravel, macadamize or pave any road in its district but nothing herein shall be taken or construed as enlarging the powers of the boards to expend money upon roads and streets within the corporate limits of any city within said special road district as limited by section 8034 of this article."

Rockport is a city of the fourth class. Section 7047, R. S. Missouri, 1929, provides that, "***** Cities of the fourth class shall have and exercise exclusive control over all streets, alleys, avenues and public highways within the limits of such city."

In the construction of statutes the primary rule is to ascertain and give effect to the lawmakers' intent, and this should be done from the words used, if possible, considering the language honestly and faithfully. St. Louis v. Commission Co., 85 S. W. (2d) 21; Graves v. Purcell, 337 Mo. 574.

Mr. W. L. Mulvania

(3)

August 30, 1939

We believe it is the intention of the Legislature, as gleaned from the statutes quoted above, that the special road district, as provided for in Article IX, Chapter 42, was to include territory outside the limits of a city, town or village and was not meant to be confined to a municipality's boundaries.

We base this conclusion upon the fact that the board of commissioners is the managing and administrative body of the road districts, but under Section 7047 they would have no control over the streets and roads in the city, and, therefore, no control over the roads of their district. The exclusive control given by Section 8033, supra, over the public highways outside the corporate limits of a city, town or village is an empty grant because there would be no such highways.

Furthermore, since Sections 8034 and 8051, supra, provide that only one-fourth of the revenue of the district can be expended in any city in the district, the remaining three-fourths of the revenue would be left with no outlet for its expenditure.

CONCLUSION.

It is, therefore, the opinion of this department that a city of the fourth class may not incorporate itself into a special road district under Chapter 42, Article IX of the Revised Statutes of Missouri, 1929.

Respectfully submitted

ARTHUR O'KEEFE
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

AO'K:DA