

ROAD DISTRICTS: Under Section 7868, R. S. Missouri, 1929, County may organize only one road district for the whole county excluding all special road districts.

December 14, 1939

12-15

Honorable Charles E. Murrell, Jr.
Prosecuting Attorney
Adair County
Kirksville, Missouri



Dear Sir:

We are in receipt of your request for an opinion, dated December 12, 1939, which reads as follows:

"The County Court of Adair County, Missouri, would like to have the opinion of your office on the following question:

"May the County Court organize the entire County outside of the Special Road District contained in Adair County into one road district under Section 7868, R. S. Missouri 1929?

"Does the word districts as used in Section 7868 R. S. Missouri, 1929, require that the County Court organize two or more districts for road purposes, or would one district for the entire county be sufficient?"

Hon. Chas. E. Murrell, Jr. (2) December 14, 1939

Section 7868, R. S. Missouri, 1929,
reads as follows:

"The county courts of all counties, other than those under township organization, shall, during the month of January, 1918, with the advice and assistance of the county highway engineer, divide their counties into road districts, all to be numbered, of suitable and convenient size, road mileage and taxable property considered. Said courts shall, during the month of January biennially thereafter, have authority to change the boundaries of any such road district as the best interest of the public may require."

It will be noticed by this section that no specific prohibition or limitation is set out as to the amount or area of land in any district. Your inquiry specifically inquires as to the word "district" which is merely a descriptive word.

Section 651, R. S. Missouri, 1929, reads
as follows:

"Whenever, in any statute, words importing the plural number are used in describing or referring to any matter, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not be used."

Although Section 7868, supra, sets out the plural of the word "district," it may be construed as the singular. It was so held in the case of State v. Sweeney, 93 Mo. 38, l. c. 41, where the court stated:

"The permission to Messrs. Ramsey and Lane to prosecute was, in effect, an appointment to prosecute (State v. Griffin, 87 Mo. 608), and by virtue of that section, construed as required by section 3123, which provides that, when any subject-matter, party, or person is described or referred to by words importing the singular number several matters and persons shall be deemed to be included, the circuit court was invested with power to appoint one or more persons to prosecute in this case."

Also in the case of State ex rel. v. Hallen, 165 Mo. App. 422, l. c. 437, where the court said:

"It is true that there are cases in which the use of the plural -- persons -- has been held not to be material; in fact our statute, section 8053, Revised Statutes 1909, expressly provides that in construing laws, whenever the plural numbers are used in describing any persons or things, a single person or thing shall be deemed to be included."

Also in the case of Arthaud et al. v. Grand River Drainage Dist. et al., 232 S. W. 264, l. c. 266, where the court said:

"However, section 27 of the act, in regard to the employment of an attorney, does not use the word 'office,' but says that the board 'shall employ an attorney,' and 'such employment shall be evidenced by an agreement in writing, which, as far as possible, shall specify the exact amount to be paid to said attorney for all services and expenses.' The apparent meaning of this section is that the board shall make a contract with some attorney or attorneys for the doing of all the legal work of the district. Public officers are not usually employed by agreements in writing, and their compensation is usually fixed at a certain amount for a given time, payable periodically. Section 27 of the act does not require this, but evidently contemplates that an attorney be employed to carry on specific legal work upon a fixed fee to be paid therefor. From all we have said he is not a public officer, and when this section says that the board shall 'employ' an attorney it does not mean that the board is limited to one person. The meaning is that the board may employ one or more; the singular including the plural. State v. Sweeney, 93 Mo. 38, 41, 5 S. W. 614; section 7054 R. S. 1919; Commonwealth v. Gabbert, 68 Ky. (5 Bush) 438, 446."

In all of the sections with reference to road districts, which also reads special road districts, a limitation has been placed in the section either limiting the amount of area of land in the district or provides the least amount of land that can be placed in a district. In the general section

Hon. Charles E. Murrell, Jr. (5) December 14, 1939

regarding road districts in all counties except those under township organization, no limitation or prohibition has been set out.

Under Section 8024 R. S. Missouri, 1929, which applies to special road districts, it will be noticed that the districts organized may be of any dimensions that may be deemed necessary or advisable, except that every district shall be included wholly within the county organizing it and shall contain at least six hundred forty (640) acres of contiguous territory. This limitation was specifically set out in that section. Also, in Section 8059 R. S. Missouri, 1929, it will be noticed that it specifically states:

"* * * Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than twelve miles square."

CONCLUSION

In view of the above authorities it is the opinion of this Department that the County Court can organize the entire county outside of the special road districts in Adair County into one road district under Section 7868, R. S. Missouri, 1929, with the advice and assistance of the county highway engineer, or it may divide the county into more than one general road district.

Respectfully submitted,

APPROVED:

W. J. BURKE
Assistant Attorney General

TYRE W. BURTON
(Acting) Attorney General

WJB:RV