

ROADS AND BRIDGES:

Highway engineer has no authority to appoint maintenance men for the county roads.

COUNTY HIGHWAY ENGINEER:

December 17, 1942

Mr. Philip W. Reilly
County Surveyor and Highway Engineer
Jefferson County
Hillsboro, Missouri

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Dear Sir:

We are in receipt of your request for an opinion, under date of December 7, 1942, which reads as follows:

"In this county the duly elected county surveyor is also the County Highway Engineer. Please advise if the County Court or the Highway Engineer has the authority to and should appoint the maintenance men for the county roads."

According to the last Federal census the population of Jefferson County is 32023, and for that reason the county surveyor is the ex-officio county highway engineer, since, under Section 8660 R. S. Missouri, 1939, it is provided that all counties in the State which contain not less than 20,000 inhabitants or more than 50,000 inhabitants the county surveyor shall be ex-officio county highway engineer. The duties of the county highway engineer are set out in Sections 8661 to 8667, inclusive, R. S. Missouri, 1939. We do not find any authority in Article 9, Chapter 46 R. S. Missouri, 1939, which applies to county highway engineers, for the highway engineer to employ or appoint the maintenance men for the county roads.

Mr. Philip M. Reilly

(2) December 17, 1942

Under Section 8516 R. S. Missouri, 1939, the county court, in counties having a population of not more than 100,000, appoints all road overseers, at the February Term of the Court.

Under Section 8520 R. S. Missouri, 1939, it is the duty of the road overseers to keep the roads in as good repair as the funds at their command will permit.

Also, Section 8522 R. S. Missouri, 1939, which sets out the duties of road overseers, states how much money should be expended by road overseers for the maintenance of the roads. This section impliedly gives the road overseers authority to employ their own help.

CONCLUSION

It is, therefore, our opinion that the highway engineer of Jefferson County does not have authority to appoint the maintenance men for the county roads, but the county court has the authority to appoint the road overseers who employ their own help.

Respectfully submitted

W. J. BURKE
Assistant Attorney General

APPROVED:

ROY McKITTRICK
Attorney General of Missouri

WJB:RW