

ROADS AND BRIDGES: Special road districts formed May 1,  
1950 must vote special taxes authorized  
TAXATION: by Section 8529, Mo. R.S.A., before  
taxes may be collected for such district.

May 22, 1950

5/25/50



Honorable Robert P. C. Wilson, III  
Prosecuting Attorney  
Platte County  
Platte City, Missouri

Dear Sir:

This is in answer to your letter of recent date re-  
questing an official opinion of this department reading as  
follows:

"On May 1, 1950, Farley Road District of Platte County, Missouri, was formed under provisions of Article 11, Chapter 46, Section 8711 and following. The area included in this district was, until May 1, 1950 part of a common county road district. Prior to formation of Farley Road District of Platte County, Missouri, and while the area was a part of a common county road district, additional thirty-five cent levy was voted under provisions Section 8529 and following, Laws, Missouri, 1945, Pages 1480-1481. Is it now necessary for Farley Road District of Platte County, Missouri to vote on this additional thirty-five cent levy or does the original levy voted stand?"

Section 8529, House Bill 337, 65th General Assembly, provides in part as follows:

"Whenever ten or more qualified voters and taxpayers residing in any general or special road district in any county in this state shall petition the county court of the county in which such district is located, asking that such court call

May 22, 1950

an election in such district for the purpose of voting for or against the levy of the tax provided for in the second sentence of the first paragraph of Section 12 of Article X of the Constitution of Missouri, it shall be the duty of the county court, upon the filing of such petition, to call such election forthwith to be held within 20 days from the date of filing such petition. \* \* \*

Section 8711, Missouri R.S.A., 1939, which refers to special road districts authorized by Article 11, Chapter 46, Revised Statutes of Missouri, provides in part as follows:

" \* \* \* Whenever an order is so made incorporating a public road district such district shall thereupon become, by the name mentioned in such order, a political subdivision of the state for governmental purposes with all the powers mentioned in this section and such others as may be conferred by law."  
(Emphasis ours.)

Section 8714, Revised Statutes of Missouri, 1939, provides as follows:

"The county court shall, upon the organization of such commissioners, cause all tools and machinery used for working roads belonging to the districts formerly existing and composed of territory embraced within the incorporated district to be delivered to said commissioners, for which such commissioners shall give a receipt, and such commissioners shall keep and use such tools and machinery for constructing and improving public roads and bridges. Said commissioners shall have sole, exclusive and entire control and jurisdiction over all public highways, bridges and culverts within the district, to construct, improve and repair such highways, bridges and culverts, and shall have all the power, rights and authority conferred by law upon road overseers,

May 22, 1950

and shall at all times keep such roads, bridges and culverts in as good condition as the means at their command will permit, and for such purpose may employ hands and teams at such compensation as they shall agree upon; rent, lease or buy teams, implements, tools and machinery; all kinds of motor power, and all things needed to carry on such work: Provided, that said commissioners may have such road work, or bridge or culvert work, or any part thereof, done by contract, under such regulations as said commissioners may prescribe."

From the above quoted provisions, it is clear that the special road district organized May 1, 1950, is a political subdivision of the state and constitutes a distinct and separate entity from the common road district out of which it was formed. Since the special tax authorized by Section 8529, supra, was voted only for the common road district, the election confers no authority for levying such tax by the special road district. The election authorized by Section 8529, supra, must be held in the special road district if a special road tax is to be collected for such special road district.

CONCLUSION

It is the opinion of this office that when a special road district was formed under the provisions of Article 11, Chapter 46, Missouri R.S.A. 1939, on May 1, 1950, out of area that was formerly in a common road district and which common road district had voted a special levy authorized by Section 8529, House Bill 337, 65th General Assembly, that the tax so voted cannot be collected on land located within the special road district unless the election authorized by Section 8529 is held within the special road district and such a tax is authorized at such an election.

Respectfully submitted,

Approved:

C. B. BURNS, JR.  
Assistant Attorney General

  
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J. E. TAYLOR  
Attorney General  
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