

COUNTY SOILS DISTRICTS:



1. The Missouri Extension Service or the College of Agriculture does not have the right to pay \$25 or any other sum of state or federal money on the cost of a balanced farm plan for "any individual farmer."
2. The supervisors of a county soils district are neither county nor state officials, but are officials of the soils district.
3. Legal action may not be taken against one or more supervisors as individuals so long as they act within the limits of their corporate duties, but each supervisor is liable for wilful or fraudulent breaches of trust or gross negligence.

July 3, 1952

Honorable Ernest W. Baker  
Representative, Lafayette County  
Higginsville, Missouri

7/11/52

Dear Sir:

This department is in receipt of your request for an official opinion. You thus state your opinion request:

"Would you please give us an official opinion on the following questions?"

"1. Does the Missouri Extension Service or College of Agriculture have the right to pay \$25.00 or any other sum of State or Federal money, on the cost of a balanced farm plan for any individual farmer?"

"2. Are the supervisors of a County Soil District considered to be State or County officials?"

"3. Can legal action be taken against one or more supervisors of a Soil District? If so, under what conditions? To what extent is a supervisor liable?"

We will first consider your first question.

We have made a careful examination of the Federal and State laws pertaining to the matter of your first inquiry.

Honorable Ernest W. Baker

We are unable to find any authorization for the payment, by the Missouri Extension Service or the College of Agriculture, of any sum of money, either State or Federal, on the cost of a balanced farm plan for "any individual farmer."

We do not attempt to answer the question whether such expenditures, by such agencies, of such moneys, to defray the total cost of what is known as a "balanced farm ring" would or would not be permissible, since you do not ask this question.

Your second question is whether the supervisors of a county soil district are state or county officials.

In this regard we direct your attention to paragraphs 1 and 2 of Section 278.110, RSMo 1949. These paragraphs state:

"1. The state soil districts commission upon declaring the establishment of a soil district as provided in section 278.100 shall proceed to arrange in the following manner for the establishment of a board of soil district supervisors to act as a local governing body for such soil district. This board shall consist of five members, as follows: Ex officio, the county agricultural extension agent; and four land representatives resident taxpaying citizens within that soil district for a period of two years next preceding such election and elected by the majority vote of land representatives under rules and procedures formulated by the soil commission, but the date of this election shall not fall upon the date of any regular political election held in that county.

"2. The term of office of the ex officio member shall be coincident with his term in the office from which he shall be serving on the supervisory board. The four elected members shall serve for two years, and in case of the death, removal of residence from the county, or resignation from office of any elected member his successor to the unexpired term shall be appointed by the

Honorable Ernest W. Baker

state soil districts commission, and such appointee shall be a resident land representative of that county. A soil supervisor may succeed himself by re-election in this office."

From the above it will be noted that the County Agricultural Extension Agent is, by state law, made, ex officio, a member of the Board of Soil Districts Supervisors.

In the case of State ex rel. Hennepin County v. Brandt, 225 Minn. 345, it is held that an "ex officio" member of a board is one who is a member by virtue of his title to a certain office, in this instance, the office of County Agricultural Extension Agent. The other four members of the board are elected by a majority vote of land representatives in the soil district. Section 278.110, paragraph 1, supra, speaks of this board as a "local governing board for such soil district." Paragraph 2 of the above section provides that in case of the death, removal, or resignation of a board member, the state soil districts commission shall appoint a successor to fill the unexpired term. This, however, does not make the appointee a state official. The Governor of the state is given the power to appoint certain officers in counties in case of death, resignation, or forfeiture, but this does not make such appointees state officers. Neither do we believe that the supervisors of a soil district are county officials. Nowhere in the law, relating to soil districts, is there any indication that such supervisors are controlled in any degree by the county or that they have any responsibility to the county. They do not exercise county functions. Nor do they necessarily have county-wide jurisdiction.

There are some instances in Missouri where an entire county is not in a soil district, but in the great majority of counties which have soil districts, the district is composed of one or more townships but not of the entire county. It is difficult to see how one could be a "county official" and yet not have county-wide jurisdiction. We do believe that such supervisors are soil district officials since their responsibilities and jurisdictions are limited to the soil district.

Your third question is: "Can legal action be taken against one or more supervisors of a Soil District? If so, under what conditions? To what extent is a supervisor liable?"

Honorable Ernest W. Baker

In regard to this, we direct your attention to paragraph 1 of Section 278.120, RSMo 1949, which section states:

"Any soil district organized under the provisions of this law shall be a body corporate and shall possess only such powers as herein provided, but any such powers possessed by said body corporate shall be particularly limited by the following provisios: provided, that the private property of any land representative or owner of property in such soil district shall be exempt from execution for the debts of the body corporate or soil district and no land representative or owner of property within said soil district shall be liable or responsible for any debts of the body corporate or soil district, and provided further, that no property of any character, title to which is not vested in said soil district, or a soil district as the case may be, shall ever be subject to any lien for any claim or judgment of or against said district, or a soil district, as the case may be. Any soil district so organized shall be officially known and titled 'The Soil District of ..... County,' and shall be so designated by the county court by order of record, and in that name shall be capable of suing and being sued and of contracting and being contracted with."

From the above, it will be noted that a soil district is made a body corporate, and "is capable of suing or being sued." Your question, which relates to the liability of a supervisor in his individual capacity, cannot be given a simple "yes" or "no" answer, since whether a supervisor would be personally liable for an action which he had taken would depend upon the character of the action. Generally, it may be said that corporate officers are not personally liable for their actions as corporate officers so long as they act within the limits of their corporate powers. They are, however, personally liable for wilful or fraudulent breaches of trust, gross negligence, or ultra vires acts.

Honorable Ernest W. Baker

CONCLUSION

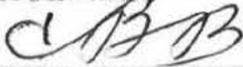
It is the opinion of this department that:

1. The Missouri Extension Service or the College of Agriculture does not have the right to pay \$25 or any other sum of state or federal money on the cost of a balanced farm plan for "any individual farmer."
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3. Legal action may not be taken against one or more supervisors as individuals so long as they act within the limits of their corporate duties, but each supervisor is personally liable for wilful or fraudulent breaches of trust or gross negligence.

Respectfully submitted,

HUGH P. WILLIAMSON  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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