

SPECIAL ROAD DISTRICTS: Submission and approval of question of disorganization of special road district under authority of Sec. 233.160 RSMo 1949 does not prohibit immediate formation of new district under applicable statutes.



June 19, 1957

Honorable William G. Johnson
Prosecuting Attorney
Morgan County
Versailles, Missouri

Dear Mr. Johnson:

This opinion is rendered in reply to your inquiry reading as follows:

"Section 233.160 of the Missouri Revised Statutes, 1949, provides a manner by which a special road district that has adopted the provisions of Sections 233.010 to 233.165, that the question may be resubmitted after expiration of 4 years upon the petition of 50 resident taxpayers of said district.

"The Syracuse Special Road District No. 1, of this county, was incorporated in 1913 and was dissolved under Section 233.160 Revised Statutes of Missouri, 1949, in the general election of November, 1956.

"50 resident taxpayers of Syracuse and surrounding territory have made application to the county court of Morgan County under Section 233.010 to organize a special road district to be known as the Syracuse Special Road District and the area to be included is less, but includes the same territory that was within the old special road district. I am enclosing a map of Morgan County wherein the old special road district organized in 1913 and dissolved in 1956 is drawn in blue pencil; the area marked in red is the proposed new special road district.

Honorable William G. Johnson

"I would appreciate you furnishing me with an official opinion as to the following question: Would Section 233.160 of the Revised Statutes of Missouri, 1949, preclude the organization of another special road district in Syracuse where the area asked to be included therein is part of the same area that was included in a dissolved special road district, or must the people of Syracuse wait the 4 years to have the question resubmitted as the above mentioned Section seems to indicate?"

Section 233.160 RSMo 1949 provides:

"1. If any district shall have adopted the provisions of sections 233.010 to 233.165 the question may be resubmitted after the expiration of four years upon the petition of fifty resident taxpayers of said district at the next general election, or at a special election to be held for that purpose at such time as the county court may order.

"2. The county court shall give notice of such election and of such submission by publishing the same in some newspaper published in the county, such notice to be published for two consecutive weeks, the last insertion to be within five days next before such election; and such other notice may be given as the court may think proper.

"3. The county court shall have the ballots for such election printed and shall have printed on such ballots 'For the disorganization of the special road district,' 'Against the disorganization of the special road district,' with the direction 'Erase the clause you do not favor.' If a majority of the votes upon such proposition be cast against it, said district shall be disincorporated and the operation of the law shall cease in said district. In all other respect said election, and the results thereof, shall be governed by the provisions of sections 233.010 to 233.165."

Honorable William G. Johnson

The above quoted statute sets forth procedure for disorganization of the special road district to which the law is directed. Subparagraph 1 of the statute provides that the "question" may be resubmitted after the expiration of four years. The nature of the "question" to be resubmitted is clearly disclosed in the language to be printed on the ballot: "For the disorganization of the special road district," "Against the disorganization of the special road district." Clearly, the statute has no reference to the original formation of a road district.

CONCLUSION

It is the opinion of this office that Section 233.160 RSMo 1949 providing that the question of disorganization of a special road district may not be resubmitted until four years after the election adopting such road district will not prohibit incorporation of a new road district immediately after disorganization of the old district.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Julian L. O'Malley.

Yours very truly

John M. Dalton
Attorney General

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