

SPECIAL BENEFIT
ASSESSMENT ROAD
DISTRICTS:
BOUNDARY EXTENSION:

Boundaries of special benefit assessment road districts of non-township organization county cannot be extended by method authorized in Section 233.155, RSMo 1949, for extension of boundaries of special city or town district of non-township organization counties. Dissolution of a special benefit assessment road district of non-township organization county by method authorized in Section 233.290 or Section 233.295, RSMo 1949, followed by the organization of a new enlarged district of the same kind, not effective as means to enlarge boundaries of former district, but effective means for establishing new benefit assessment district with certain proposed boundaries.



January 28, 1957

Honorable Thomas G. Woolsey
Prosecuting Attorney
Morgan County
Versailles, Missouri

Dear Mr. Woolsey:

Your recent request for our legal opinion reads as follows:

"Section 233.155 of the Missouri Revised Statutes, 1949, provides a method and manner to extend the boundaries of a Special Road District within which is located a city, town, or village containing less than 100,000 inhabitants.

"Section 233.170 - 233.315, both inclusive, of the Missouri Revised Statutes, 1949, appear to be the only laws governing Special Road Districts in counties not under township organization in which such road districts there are no cities, towns, or villages. Said Section containing no provision to expand or enlarge the boundaries of such districts. I would appreciate your furnishing me with an official opinion as to the following:

"(1) Are the provisions of Section 233.155 of the Missouri Revised Statutes, 1949, available to and applicable to Special Road Districts in counties not under township organization and in which such road districts there are no cities, towns, or villages?

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"(2) If not, is the only means available to enlarge the boundaries of such special road district a dissolution of the district followed by the creation of a new and different road district with the new desired boundaries."

Sections 233.170 to 233.315, inclusive, RSMo 1949, are in regard to the organization, powers, duties of the commissioners, and methods of dissolution of special benefit assessment road districts in non-township organization counties. None of said sections provide a method by which the boundaries of such a district may be extended in order to take in additional territory.

Sections 233.010 to 233.165, inclusive, RSMo 1949, are in regard to the organization, powers, duties of the commissioners, and certain other statutory provisions relating to special eight mile road districts in non-township organization counties. Among such sections is Section 233.155, which contains the statutory procedure for extending the boundaries of such a district.

It is noted that no statutory method exists by which the boundaries of a benefit assessment district may be enlarged. Section 233.155, RSMo 1949, applies only to special eight mile districts and the procedure therein authorized for enlarging the boundaries has no application to benefit assessment districts. Therefore, our answer to the first inquiry of the opinion request is in the negative.

The second inquiry, in effect, asks that if the answer to the first inquiry is in the negative, then are the only means available for enlarging the boundaries of a special benefit assessment district by a dissolution of said district followed by the creation of a new and different district with the desired boundaries.

Sections 233.290 and 233.295, RSMo 1949, contain separate and different methods for dissolving a benefit assessment district, and the distinguishing characteristics of each procedure were discussed in an opinion of this department written for the Judges of the Osage County Court on September 5, 1953. A copy of said opinion is enclosed for your consideration.

If a benefit assessment district were to be dissolved as suggested in the second inquiry, the dissolution must be in accordance with Sections 233.290 or 233.295, as these are the

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only statutes authorizing dissolution of such districts. After dissolution under either procedure, the former district would be legally nonexistent and, even though a new district of the same kind were organized from the same territory together with new territory (desired to be included in the former district), such action would not have the effect of enlarging the boundaries of the former district, since the new district would be entirely separate and have no connection whatsoever with the original district.

While the boundaries of the original district could not be enlarged in the manner suggested, it does appear that the dissolution of the old district, the formation of the same kind of new district with the same land as the former and such additional territory as might be desired, would for all practical purposes accomplish the desired results.

CONCLUSION

Therefore, it is the opinion of this department that the boundaries of a special benefit assessment road district, of a county not under township organization, cannot be extended by following the procedure authorized by Section 233.155, RSMo 1949, for extension of the boundaries of a special city or town road district of a county not under township organization.

It is further the opinion of this department that the dissolution of a special benefit assessment road district of a county not under township organization, in accordance with Section 233.290 or 233.295, RSMo 1949, followed by the organization of a new enlarged district of the same kind, will not have the effect of extending the boundaries of the former district, but will serve as an effective means for accomplishing the results desired in establishing a special benefit assessment district with certain proposed boundaries.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Paul N. Chitwood.

Very truly yours,

John M. Dalton
Attorney General

PNC:lc:hw

enclosure