

July 26, 1961



Honorable James R. Reinhard
Prosecuting Attorney, Monroe County
Paris, Missouri

Dear Mr. Reinhard:

You have requested an opinion from this office with respect to the following:

"The County Court of Monroe County has the following problem:--

"In January, 1961, the Monroe County Court was petitioned to dissolve the Stoutsville Special Road District of Monroe County, Missouri; -- On February 21, 1961, the Special Road district was dissolved by a vote of the people residing in the district and a Trustee was appointed by the Court to close the affairs of said road district.

"On March 27, 1961, the Trustee made his final settlement with the Court and the Stoutsville Special Road District is now a part of the County Road District #1.

"In preparing the 1961 County Road Budget, the Court did not foresee the consolidation, therefore, the budget did not contain the anticipated revenue or expenditures of this added territory. We have on hand a balance of \$3,069.12 from this road district, plus anticipated revenue for this year.

"This district, which operated on a levy of 35¢, will now operate on a 60¢ levy under County Road District #1.

"Should the County Budget be amended to include this additional revenue and expenses?"

Honorable James R. Reinhard July 26, 1961

We have obtained additional information from the County Clerk of Monroe County to the effect that the Stoutsville Special Road District was organized in 1920 under the provisions of Sections 10576 to 10610, RSMo 1909. These sections correspond generally with Sections 233.010 to 233.165, RSMo 1959, and the districts formed under these sections are known as city or town road districts.

Section 233.160, RSMo 1959, provides the method for dissolution of such road districts. It provides in part that upon petition of fifty resident taxpayers of the district the county court shall submit the matter of dissolution of the district to the vote of the people, and if a majority of votes upon the proposition are cast for dissolution the district shall be disincorporated and the operation of the law shall cease in said district.

We are unable to find any statutory provisions as to the disposition of the money or the property belonging to such a special road district after its dissolution.

Chapter 137, RSMo 1959, provides in part for the levy of the road and bridge tax for all road districts in the county. Section 137.555 provides for the levy of a thirty-five cent tax on each one hundred dollars evaluation, which tax when collected shall be paid into the county treasury and designated as "the special road and bridge fund", to be used for road and bridge purposes and no other purpose. It further provides that if the tax is levied and collected from property lying within a special road district, four-fifths of the tax collected on the property in the special road district shall be placed to the credit of such special road district in the office of the county treasurer and paid out to such special road districts on proper warrants drawn thereon.

Section 137.560, RSMo 1959, provides that the funds derived under Section 137.555 shall be shown as a separate item on all the financial, budget and other accounting statements of the county and shall be designated as a special road and bridge fund of such county.

Section 50.680, RSMo 1959, deals with the preparation of the county budget by the county court and in part provides for all funds derived from Section 137.555 to be placed in class three of the county budget.

There is no statutory authority for the revision of the budget after it has been prepared by the county court.

The money and the property belonging to the Stoutsville Special Road District came from the taxes provided for under Chapter 137, and such taxes are required by statute to be used only for road and bridge purposes.

Honorable James R. Reinhard July 26, 1961

In Gill vs. Buchanan County, 142 SW 2d 665, the Supreme Court had before it for decision the question of whether or not the fact that the county court of Buchanan County had failed to provide in its budget for the full salaries of the county judges would preclude the recovery of such salaries by the judges. The court said, l.c. 668:

". . . They must be considered to be in the budget every year because the Legislature has put them in and only the Legislature can take them out or take out any part of these amounts. . ."

It should be observed the decision of the court in the above cited case is based on the fact that the compensation of the judges or the county court is provided for by the statute, and since it is provided for by law it must be considered as being in the budget even though not in fact budgeted.

Since Section 50.680, RSMo 1959, requires all the funds derived from levies made under Section 137.555, supra, to be placed in class three of the budget, it is our opinion that the funds received from the dissolved special road district which the county court did not and could not anticipate receiving at the time the budget was prepared must be considered to be in class three as a matter of law and should be expended as any other funds in class three.

Very truly yours,

THOMAS F. EAGLETON
Attorney General