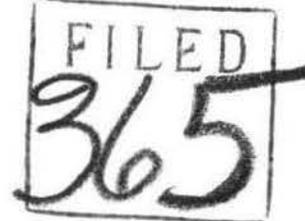


December 17, 1962



Honorable Rufe Scott
Prosecuting Attorney
Stone County
Galena, Missouri

Dear Mr. Scott:

This is in answer to your letter of October 12, 1962, requesting an opinion of this office regarding whether road commissioners in counties organized under Chapter 233, Sections 233.010 to 233.165, may hire out road machinery for grading in other districts.

We enclose herewith an opinion of this office given on February 16, 1954, to the Honorable Garner L. Moody, Prosecuting Attorney of Wright County, in which we held that a township in a county under township organization was not empowered to use township machinery to do work for private individuals for hire. We believe the reasoning and conclusion given in this opinion would apply equally to the question you asked.

However, Section 233.105 RSMo 1959 provides as follows:

"1. Said boards may repair, grade, gravel, macadamize, pave or otherwise improve to the distance of fifteen miles from any line of such special road district, any highway outside of such district if the same be a prolongation of an improved street or highway in said district and if liberal contributions toward such improvements be made in money, material or labor by the inhabitants interested in such improvements or the county court or

Honorable Rufe Scott

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any special road district organized under the laws of this state, or the state highway board, or the United States government, or by any one or more of the foregoing.
* * *"

It is our opinion that under the provisions of this section the road commission could hire out its equipment to a contiguous road district to improve highways in such district that are a prolongation of an improved street or highway in its own district.

However, otherwise than under the circumstances set out in Section 233.105, it is our opinion that the road commissioner may not allow district machinery to do work in other districts for hire.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

JHD: sr
Enclosure