

SPECIAL ROAD DISTRICTS: Special road districts may not issue tax
TAX ANTICIPATION NOTES: anticipation notes, but may issue warrants
WARRANTS: up to the amount of revenue anticipated for
the year in which the warrants are issued.

OPINION No. 397

October 21, 1963



Honorable William E. Seay
Prosecuting Attorney
Dent County
Salem, Missouri

Dear Mr. Seay:

This is in answer to your recent request for an opinion,
which reads as follows:

"I have been requested by the Secretary
and Treasurer of the Special Road Dis-
trict in our county to request an opinion
from your office as to whether or not a
Special Road District duly organized under
the laws of this state can borrow money
through Tax Anticipation Notes in the same
manner that a county of the fourth class
can do."

A county of the fourth class is authorized by Sections
50.070 to 50.140, RSMo 1959, to issue Tax Anticipation Notes.
I find no statutory authority authorizing a Special Road Dis-
trict to issue such notes; hence, the Special Road District
may not so act.

If the Special Road District to which you refer was
organized under Sections 233.010 to 233.165, RSMo 1959, then
the Special Road District may issue warrants in anticipation
of the districts annual income under Section 233.135, RSMo
1959, as was held in an opinion of this office under date of
April 11, 1961, addressed to Stephen H. Zeilmann.

Honorable William E. Seay

As to benefit assessment special road districts, organized under Sections 233.170 to 233.315, RSMo 1959, although there is no specific statute authorizing the issuance of warrants in anticipation of the district's annual income as exists for the "3-mile" special road districts organized under Section 233.010 to 233.165, supra, this office has held in an opinion under date of October 10, 1946, addressed to Honorable Clark H. Gore, that even without such a statute a benefit assessment special road district may issue warrants up to the amount of revenue anticipated for the year in which the warrants are issued. The opinion based its ruling on *Hawkins v. Cox*, (Mo) 66 SW2d 539, which held that under Article X, Section 12, of the 1875 Constitution [now Article VI, Section 26 of the 1945 Constitution]:

" . . .any such municipal corporation [special road district] may spend or contract to spend (become indebted) 'in any (calendar) year the income and revenue provided for such year . . .'"

CONCLUSION

It is the opinion of this office that Special Road Districts may not issue Tax Anticipation Notes, but a Special Road District organized under Sections 233.010 to 233.165, RSMo 1959, or organized under Sections 233.170 to 233.315, RSMo 1959, may issue warrants up to the amount of revenue anticipated for the year in which the warrants are issued.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Jeremiah D. Finnegan.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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