

BRIDGES:  
COMPENSATION:  
COUNTY HIGHWAY ENGINEER:  
HIGHWAY ENGINEER:  
SPECIAL ROAD DISTRICT:

It is not part of the official duties of a county highway engineer to design and supervise the construction of bridges built by a special road district organized under the provisions of Sections 233.010 to 233.165, RSMo. The county highway engineer may be employed and compensated by such special road district to design and supervise the construction of a bridge to be built by such special road district.

OPINION NO. 35

February 7, 1964



Honorable Bernard Simcoe  
State Representative  
Callaway County  
Fulton, Missouri

Dear Mr. Simcoe:

Your recent request for an official opinion of this office reads as follows:

"Is it a part of the official duty of a County Engineer to design and supervise the building of bridges in a special road district in the county? If it is not may he be employed by the Special Road District to do this and receive compensation for doing so?"

I have been informed that the special road district to which you have reference is a city or town road district organized under Sections 233.010 to 233.165, RSMo.

Section 233.115, RSMo, provides that the Board of Commissioners of such special road district may build bridges:

"Said board may, by contract or otherwise, under such regulations as the board shall prescribe, build, repair and maintain, or cause to be built, repaired, or maintained all bridges and culverts needed within said district; provided, however, that the county court of the county in which said special road district is located may, in its discretion, out of the funds available to it for that purpose, construct, maintain, or

repair, any bridge, or bridges, or culvert or culverts in such road district, or districts, or it may, in its discretion, appropriate out of the funds available for that purpose money to aid and assist the commissioners of said special road district, or districts, which shall be expended by the commissioners of said special road district, or districts, as above provided."

In addition to permitting the board of the special road district to build or contract to build bridges, the statute provides that the county court may also build bridges in the district or may appropriate funds to the board of commissioners to aid the district in its building of the bridges.

In the situation where the county builds the bridge, it would be the county highway engineer's duty to design and supervise the building of the bridge, and obviously as the special road district would not be building the bridge it could not hire him or compensate him for such work nor would it so desire.

But in the situation where the special road district is building the bridge, either totally with their own funds or with county funds appropriated to them for such purpose, the county highway engineer has no such duty to design and supervise the building of bridges in the special road district.

Sections 234.010 and 234.020, RSMo 1959, do not apply in the case of special road districts which are independent, corporate entities.

Section 234.010. "Each county court shall determine what bridges shall be built and maintained at the expense of the county and what by the road districts; provided, that no road district shall be compelled to build a bridge which costs fifty dollars or more."

Section 234.020. "The construction of all masonry or concrete culverts and bridges, and of all other bridges costing over fifty dollars, shall be under the supervision of the county highway engineer."

The road districts referred to in Section 234.010, supra, are the general road districts provided for in Section 231.010, RSMo 1959. Section 234.020, supra, necessarily refers to county bridges and general road district bridges

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and not to special road districts. It is true the section provides that "all" bridges are to be under the supervision of the county highway engineer but this must be limited to the context in which it is found, to do otherwise would lead to the result that all state and federal bridge construction in the county would be under the county highway engineer's supervision, which is surely not the legislative intent, but rather the intent is that the county highway engineer is to supervise the construction of county and general road district bridges.

The legislature did not express any intention in the sections concerning special road districts that the county highway engineer had a duty to supervise the construction of special road district bridges and without such expression in the statutes the county highway engineer has no duty to so act.

Since the county highway engineer has no such duty to so act, he may be compensated for the performance of such acts if such acts are not so incompatible with his official duties so as to render such acts improper. The incompatibility does not mean physical inability to perform both jobs but some conflict in the duties required as where the county highway engineer, as such, has some supervision over himself in the performance of the job, is required to deal with, control or assist himself in such job. See State ex rel. Langford v. Kansas City, 261 SW 115, and an opinion of this office under date of September 8, 1961, addressed to Honorable Proctor N. Carter, which is attached.

This office finds no such incompatibility in the office of county highway engineer and employment by a special road district to design and supervise the construction of a bridge by such special road district.

#### CONCLUSION

Therefore, it is the opinion of this office that it is not part of the official duties of a county highway engineer to design and supervise the construction of bridges built by a special road district organized under the provisions of Sections 233.010 to 233.165, RSMo. The county highway engineer may be employed and compensated by such special road district

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to design and supervise the construction of a bridge to be built by such special road district.

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

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

Enc.  
JDF:df