

April 13, 1965



Honorable James L. Paul
Prosecuting Attorney
McDonald County
Pineville, Missouri

Dear Mr. Paul:

This is in answer to your request for an official opinion of this office which asks whether road and bridge money received by the County Treasurer of McDonald County for special road districts should be disbursed directly to the special road district against the county, which is not under township organization.

Subsection 1 of Section 233.195, RSMo Supp. 1963, relates to the portion of tax set aside for benefit assessment special road districts in counties not under township organization as follows:

"1. County Courts shall cause to be set aside and placed to the credit of each road district so incorporated four-fifths of such part or portion of the tax arising from and collected and paid upon any property lying and being within any such district, by authority of section 137.555, RSMo. All revenue so set aside and placed to the credit of any such incorporated district shall be used by the commissioners thereof for constructing, repairing and maintaining bridges and culverts within the district, and working, repairing, maintaining and dragging public roads within the district and paying legitimate administrative expenses of the district, and for such other purposes as may be authorized by law."

Section 137.555, RSMo 1959, referred to in the Section, supra, reads as follows:

"In addition to other levies authorized by law, the county court in counties not adopting an alternative form of government and the proper administrative body in counties adopting an alternative form of government, in their discretion may levy an additional tax, not exceeding thirty-five cents on each one hundred dollars assessed valuation, all of such tax to be collected and turned into the county treasury, where it shall be known and designated as 'The Special Road and Bridge Fund' to be used for road and bridge purposes and for no other purpose whatever; provided, however, that all that part or portion of said tax which shall arise from and be collected and paid upon any property lying and being within any special road district shall be paid into the county treasury and four-fifths of such part or portion of said tax so arising from and collected and paid upon any property lying and being within any such special road district shall be placed to the credit of such special road district from which it arose and shall be paid out to such special road district upon warrants of the county court, in favor of the commissioners or treasurer of the district as the case may be; provided further, that the part of said special road and bridge tax arising from and paid upon property not situated in any special road district and the one-fifth part retained in the county treasury may, in the discretion of the county court, be used in improving or repairing any street in any incorporated city or village in the county, if said street shall form a part of a continuous highway of said county leading through such city or village."

Thus, this section provides that the amount placed to the credit of the special road district from which it arose shall be paid out to the special road district only upon warrants of the county court in favor of the commissioners or treasurer of the district.

Section 233.125, RSMo 1959, concerns the dispositions of proceeds from certain county licenses collected on pool and billiard table and taxes collected on property as provided for in Section 137.555, RSMo 1959, for eight mile road districts. This section is as follows:

"In all counties in this state where a special road district, or districts, has or have been organized, or where a special road district, or districts, may be organized under sections 233.010 to 233.165, and where money shall be collected for road and bridge purposes under the provisions of section 137.555, RSMo, upon property within such special road district, or districts, or where money shall be collected for pool or billiard table licenses upon any business within such special road district, or districts, the county court shall, as such taxes or licenses are paid and collected, apportion and set aside to the credit of such special road district, or districts, from which said taxes were collected, four-fifths of such part or portion of said road and bridge tax so arising from and collected and paid upon any property lying and being within any such special road district, or districts, and also one-half of the amount collected for pool and billiard table licenses so collected from such business carried on or conducted within the limits of such special road district; and the county court shall, upon application by said commissioners of such special road district, or districts, draw warrants upon the county treasurer, payable to the commissioners of such special road district, or districts, or the treasury thereof, for four-fifths of such part or portion of said road and bridge tax so collected upon property lying and being within such special road district, or districts, and also one-half of the amount collected for pool and billiard table licenses so collected from such business carried on or conducted within the limits of such special road district, or districts."

Thus, under this section, the county court shall, upon application of the eight mile special road district commissioners, draw warrants on the county treasury payable to the commissioners or the treasury of the eight mile special road districts.

Your second question asks whether the recipient, for the road district, of these funds should be under bond. Section 233.055, RSMo 1959, requires that the treasurer of the eight mile special road district be bonded in an amount fixed by the board of commissioners of the district. There is no other provision for the bonding of the commissioners of an eight mile special road district.

Section 233.185, RSMo 1959, which relates to benefit assessment special road districts in counties not under township organization provides that the county treasurer shall be the treasurer of the board of commissioners and that he shall be responsible on his bond. There is no other provision for the bonding of the commissioners of a special road district in a county not under township organization.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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