

PREVAILING WAGE LAW:
SOIL AND WATER CONSERVATION DISTRICTS:
POLITICAL SUBDIVISIONS:

Soil and water conservation districts created pursuant to Section 278.060 et. seq. RSMo, Cum. Supp. 1965, are contemplated by and considered as "public bodies" under the provisions of Section 290.210 (6) Cum. Supp. 1965, and are subject to the provisions of the prevailing wage law.

OPINION NO. 327

July 28, 1966

Honorable James J. Butler, Chairman
Industrial Commission of Missouri
State Office Building
P. O. Box 599
Jefferson City, Missouri



Dear Mr. Butler:

This is in response to your request for an opinion of this office on the question whether or not soil conservation districts created pursuant to Section 278.060 to 278.155 RSMo, Cum. Supp. 1965, are contemplated by and considered as "public bodies" under the provisions of Section 290.210 (6) RSMo, Cum. Supp. 1965.

Section 290.210 RSMo Cum. Supp. 1965, is a part of the prevailing wage law of Missouri. Subsection (6) thereof states, "'Public body' means the state of Missouri or any officer, board or commission of the state, or other political subdivision;" Subsection (7), defining "public works" excludes "* * * any work done for or by any drainage or levee district;"

A political subdivision embraces a certain territory and its inhabitants organized for public advantage and not in the interest of particular individuals or classifications and its chief design is the exercise of governmental functions and to the electors residing within each subdivision is, to some extent, committed the power of local government to be wielded within their territory for the peculiar benefit for the people there residing. Ark. State Highway Commission v. Clayton, 226 Ark. 772, 792 S.W.2d 77, 79.

Section 278.100 RSMo, Cum. Supp. 1965, provides for the estab-

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lishment of a soil and water conservation district in a county or in a specified township or townships, pursuant to a petition of land representatives and a vote of the "majority of all land representatives voting" in a referendum. Section 278.110 RSMo provides for a governing board of soil and water district supervisors, composed of the county agricultural extension agent and four land representatives elected by the farmers and their representatives.

Section 278.120 RSMo provides that such a district shall be a body corporate with powers and duties involving soil and water conservation, with authority to cooperate with governmental and other agencies and to accept grants, gifts and contributions from the United States Government and to use and expend them in accordance with the policies of the State soil and water district commission.

In *Morrison v. Morey*, Mo., 48 S.W. 629, the Supreme Court, holding that a levee district constitutes a political subdivision of the State, said l. c. 633:

" * * * It is manifest that the levee district is not a private corporation. A private corporation is an aggregation of individuals, who have voluntarily associated themselves together. Here the levee district is constituted by the county court laying out the district, and a majority vote of the landowners in the district may order the work to be done. While the law requires a notice to be given of intention to apply to the county court for the formation of the district, it leaves the power to form the district in the court. The landowners can defeat the whole scheme by refusing, by a majority vote, to order the work done; and thus nullify the action of the county court in forming the district. Still the minority are drawn into it involuntarily, and this could not be done if it was a private corporation. It is a public, political subdivision of the state, which the state has the power to create, under its police powers, and as such subdivision it exercises the prescribed functions of government in the district. *People v. Reclamation Dist.*, 53 Cal. 346; *Hoke v. Perdue*, 62 Cal. 545; *Elmore v. Commissioners*, 135 Ill. 269, 25 N.E. 1010; *State v. Stewart*, 74 Wis. 620, 43 N.W. 947; *Nugent v. Commissioners*, 58 Miss. 197; *Commissioners v. Griffin*, 134 Ill. 330, 25 N. E. 995; *Dean v. Davis*, 51 Cal. 406. * * * "

Similarly, a soil conservation district is constituted by the

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State Soil and Water District Commission (278.110 RSMo Cum. Supp. 1965). If the majority approve the creation of the soil conservation district, "the minority are drawn into it involuntarily." Also see opinion of the Attorney General No. 33, dated January 23, 1958, to Honorable William E. Gladden, copy enclosed, holding that the prevailing wage law applies to incorporated municipalities and school districts.

Thus, all the elements of the above definition of a political subdivision are included in a soil and water district.

It is clear that under the prevailing wage law all entities fitting the above definition are "public bodies." Drainage and levee districts also come within the scope of the classification "public bodies." It is only by virtue of subsection (7) of Section 290.210, supra, that drainage and levee districts are excluded from the operation of the prevailing wage law. They are excluded, even though they are "public bodies," by virtue of the express exception contained in subsection (7).

CONCLUSION

Therefore, it is the opinion of this office that soil and water conservation districts created pursuant to Section 278.060 et. seq. RSMo, Cum. Supp. 1965, are contemplated by and considered as "public bodies" under the provisions of Section 290.210 (6) Cum. Supp. 1965, and are subject to the provisions of the prevailing wage law.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Donald L. Randolph.

Very truly yours,



NORMAN H. ANDERSON
Attorney General

Enclosure