

ROADS AND BRIDGES:
COUNTY COURT:
TAXES (ROADS AND BRIDGES):
SEWER DISTRICTS:

Revenue derived from a county tax levy under Section 137.555, RSMo can be used only for road and bridge purposes and, therefore, cannot be expended for Jackson County Sewer District purposes.

June 12, 1969

OPINION NO. 193

Honorable William Moore
State Representative
Room #235B - 3rd District
State Capitol Building
Jefferson City, Missouri 65101



Dear Representative Moore:

This is in answer to your letter of recent date in which you asked for an opinion on the subject matter of a letter from Judge Charles B. Wheeler, Jr. The question raised by Judge Wheeler is whether the Jackson County Sewer District can be funded on an interim basis from the County Road and Bridge Fund until such time as the proceeds of bonds to be issued by the district are available.

The Jackson County Sewer District was organized under the provisions of Senate Bill No. 396 adopted by the 74th General Assembly of the State of Missouri. Sections 204.250 through 204.470, RSMo Supp. 1967, states that the purpose of districts created pursuant to the Act is the construction and maintenance of a common system of trunk sewers and sewage treatment plants. Section 204.360 describes the funds that may be used to pay the costs of accomplishing this purpose. One such source of funds is described in subdivision 2 as follows:

"* * *any other funds which may be obtained under any law of the state or of the United States or from any county or municipality for that purpose;* * *"

Thus the statute contemplates that funds may be obtained by the district from the county. The specific question raised by your letter, however, is whether funds from the County Road and Bridge Fund may be paid over to the district.

Section 12(a) of Article X of the Missouri Constitution authorizes the levy of a tax by counties "to be used for road and bridge purposes." Section 137.555, RSMo 1959, provides that this tax shall 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; * * *"

Section 137.557(3), RSMo Supp. 1967, authorizes the county court under some circumstances to refund money in the Road and Bridge Fund to certain cities. This section limits the use of the funds refunded as follows:

Honorable William Moore

"* * *any such refund shall be used and applied by such city exclusively in the improvement and repair of public roads, streets and bridges within the corporate limits of such city and within the county making the refund, and for no other purpose whatever; * * *"

The provisions quoted above clearly and expressly prohibit the use of funds in the Special Road and Bridge Fund for anything that cannot be classified as a road and bridge purpose. Since the construction and maintenance of a common system of trunk sewers and sewage treatment plants cannot reasonably be classified as a road and bridge purpose, it is the opinion of this office that the Jackson County Sewer District cannot be funded from the Road and Bridge Fund on either a temporary or a permanent basis.

CONCLUSION

It is the opinion of this office that revenue derived from a county tax levy under Section 137.555 RSMo, can be used only for road and bridge purposes and therefore cannot be expended for Jackson County Sewer District purposes.

The foregoing opinion, which I hereby approve, was prepared by my Special Assistant, James E. Westbrook.

Yours very truly,



JOHN C. DANFORTH
Attorney General