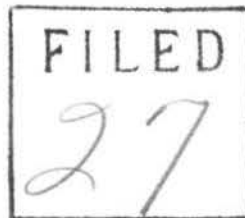


ROAD DISTRICTS: Statutory method for dissolution provided for each type of district, must be followed.

October 12, 1943

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Honorable John A. Eversole
Prosecuting Attorney
Washington County
Potosi, Missouri

Dear Mr. Eversole:

Under date of October 5, 1943, you wrote this office requesting an opinion as follows:

"Irondale Special Road District of Washington County, Missouri was organized under the provisions of Article 10, Chapter 46, R. S. Mo. 1939 pursuant to an election held in accordance with Section 8704.

"There are now two propositions before the County Court; one, the disorganization of the district and two, if it is not disorganized to separate a portion of the present territory from the district.

"In proceeding on the question of the disorganization of the district, must the County Court follow the provisions of Section 8706 or may it follow the provisions of Section 8703 or 8731 in Article 11 of Chapter 46?

"If the district is to be disorganized is there any method whereby a certain portion of the territory may be separated or withdrawn from the district?

"I will appreciate an opinion from your office covering these questions."

It is assumed that Section 8703, referred to in your letter, is a stenographic error and should read "Section 8730," for Section 8703 has nothing to do with the dissolution of road districts but Section 8730 does pertain to the dissolution of a certain type of road district.

Section 8706, R. S. Mo. 1939, referred to in your letter, is the method prescribed for the dissolution of the type of road district authorized by Article 10, Chapter 46. Districts of this kind, sometimes called eight-mile districts, are created only after a vote of consent by the people of the proposed district, Section 8704, and Section 8706 provides the manner of dissolving such districts, which must be after a vote by the people shall have been in favor of the dissolution of the district.

Sections 8730 and 8731 of Article 11, Chapter 46, R. S. Mo. 1939, pertain to an entirely different road district.

The Legislature having expressly provided in Article 10, Chapter 46, the manner in which road districts organized under this article can be dissolved, no other method could be used to dissolve such district. The following quotation from the case of Chilton et al. v. Drainage Dist., 63 S. W. (2d) 421, l. c. 422, concisely states the rule of law applicable:

"* * * It is a well-recognized rule of construction as to statutes that ordinarily, where a statute limits a thing to be done in a particular form, it includes in itself a negative, namely, that such thing shall not be done in any other manner. State ex rel. Barlow v. Holtcamp, 322 Mo. 258, 14 S. W. (2d) 646; State ex inf. Conkling v. Sweaney, 270 Mo. 685, 195 S. W. 714."

There is no statutory method provided for withdrawing territory once included in the district, from the district.

Conclusion.

In the dissolution of a special road district organized under Article 10, Chapter 46, the procedure is prescribed in

Hon. John A. Eversole

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Oct. 12, 1943

Section 8706, R. S. Mo., 1939.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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