

TOWNSHIPS:  
ROADS AND BRIDGES:  
ROAD DISTRICTS:  
ELECTIONS:  
TAXATION:

Question of whether or not election held under provisions of Section 8529, Laws of Mo. 1945, authorized imposition of tax voted, depends on question of whether or not townships were formed into "general road districts" by the township boards.

July 25, 1947

FILED

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Honorable C. E. Ernst  
Prosecuting Attorney  
Gentry County  
Albany, Missouri

Dear Sir:

This is in reply to your letter of recent date requesting an official opinion from this department, and reading as follows:

"On June 3rd, 1947 an election was held in Gentry County to determine whether or not the several townships in the county might be authorized as general road districts to have levied an additional tax of 35 cents on each \$100.00 of assessed valuation for road and bridge construction, this to be in addition to the levies for road and bridge purposes already provided to be levied by the several townships for road and bridge purposes.

"Since Gentry County has Township organization and we have no special road districts and the County Court has never established any general road districts since the adoption of Township organization and this election was held under the authority, or considered authority, of Section 8529, Page 1480, Laws 1945. A question has been raised as to the validity of the election and the levy of the tax sought to be collected for road and bridge purposes in the several townships."

We assume that a separate election was held in each township, on a petition of ten or more voters in each township, to vote the tax that you refer to.

The answer to the question contained in your opinion request depends on whether or not, as a matter of fact, the townships in Gentry County which voted this tax comprise "general road districts."

We are enclosing official opinions of this department rendered to Honorable R. Kip Eriney, Prosecuting Attorney of Stoddard County, under date of May 1, 1945, and Honorable Herbert S. Brown, Prosecuting Attorney of Grundy County, under date of March 24, 1947.

It will be noted that in the opinion to Honorable Herbert S. Brown that part of the opinion to Honorable R. Kip Eriney, holding that no authorization for holding such election had been made by the Legislature, is withdrawn, and the opinion to Honorable Herbert S. Brown does recognize the legislative authorization for such election.

It will also be noted that these opinions hold that the question of whether or not a township is a "general road district" is a matter of fact.

On July 10, 1947, this office sent you a copy of an official opinion rendered under date of May 16, 1947, to Mr. Julian O'Malley, which opinion holds that before a "general road district" exists in counties not under township organization, such road district must be formed by the county court.

In counties under township organization, before a general road district exists such road district must be formed by the township board, under the provisions of Section 8814, R.S. Mo. 1939, which provides, in part, as follows:

"The township board of directors shall form the township into one or more road districts. \* \* \* \*"

Honorable C. E. Ernst

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Conclusion.

It is the opinion of this department that the elections held in the townships of Gentry County, under authority of Section 8529, Laws of Missouri 1945, page 1480, authorize the levy of the tax voted if, as a matter of fact, such townships have been formed into "general road districts" by the various township boards.

Respectfully submitted,

C. D. BURNS, JR.  
Assistant Attorney General

APPROVED:

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J. R. TAYLOR  
Attorney General

CEB:ml  
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