

ROADS DISTRICT,
SPECIAL

Costs of election to disorganize special road district organized under Chap. 46, Art. 10, must be borne by County in which all or greater part of district is located.

February 13, 1950

FILE # 24



Honorable William Lee Dodd
Prosecuting Attorney
Ripley County
Doniphan, Missouri

Dear Mr. Dodd:

We have your recent request for an opinion from this office. Your letter of request is as follows:

"The landowners of Pratt Special Road District, Ripley County, Missouri, filed a petition to have the district disorganized. Who must pay the cost in the proceedings? Does it make any difference as to whether the district is dissolved or not as to who pays the cost?"

You do not state under what statute the Pratt Special Road District was organized. We note however, that Ripley County is under county government organization; special road districts organized in such counties are governed by the provision of Chapter 46, Article 10 and 11, R. S. Missouri, 1939. We assume because you are concerned with the costs, that you refer to a dissolution by election, as provided by Article 10, supra.

Section 8706, Chapter 46, Article 10 R. S. Missouri, 1939, is as follows:

"If any district shall have adopted the provisions of this article the question may be re-submitted after the expiration of four years upon the petition of fifty resident taxpayers of said district at the next general election, or at a special election to be held for that purpose at such time as the County Court may order. The County Court shall give notice of such election and of such submission by publishing the same in some newspaper published in the County - such notice to be published for two consecutive weeks and the last insertion to be within five

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days next before such election; and such other notice may be given as the Court may think proper. The County Court shall have the ballots for such election printed and shall have printed on such ballot 'For the disorganization of the Special Road District', 'Against the disorganization of the Special Road District', with the direction 'Erase the clause you do not favor'. If a majority of the votes upon such proposition be cast against it said district shall be disincorporated and the operation of the law shall cease in said district. In all other respects said election, and the result thereof, shall be governed by the provisions of Article 10, Chapter 46, Revised Statutes of Missouri, 1939."

(Underscoring ours.)

The significant part of the statute set out above is that sentence (which we have underscored) which states that the election for the disorganization of a special road district shall be governed by the provisions of Art. 10, Chap. 46, R. S. Missouri, 1939.

The only part of said Article 10, which considers the question of the costs, or expenses of a special road district election is Sec. 8705, R. S. Missouri 1939, as follows:

"The expenses of such election shall be borne by the county within which is all or the greater part of the territory of the proposed district."

233.020
Repealed, 1978

Although Section 8705, supra, refers specifically to an election for the creation of a special road district, the underscored sentence in Section 8706 makes it clear that Section 8705 is intended to apply also to an election for the disorganization of such a district. It is therefore apparent that the expenses of an election to disorganize a special road district must be paid entirely by the county in which the whole or greater part of the district is located.

You ask further if it would make any difference (as to costs of the election) whether the district is actually dissolved by the election. No section in said Art. 10, indicates that any other rule has been made in such an event, and therefore, it follows that said Sec. 8705 applies regardless of the result of the election.

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CONCLUSION

It is the opinion of this department that the expenses of an election to disorganize a special road district organized under the provisions of Art. 10, Chap. 46, R. S. Missouri, 1939 must be paid by the county in which the whole or the greater part of the district is located. Said county must bear the costs of the election regardless of the result of said election.

Respectfully submitted,

H. JACKSON DANIEL
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General