

COUNTY AND SPECIAL ROAD DISTRICTS: Who shall pay special road districts' part of publishing county financial statement.

March 2, 1942

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Honorable Robert W. Hawkins
Prosecuting Attorney
Pemiscot County
Caruthersville, Missouri

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Dear Sir:

This will acknowledge receipt of your request for an official opinion under date of February 13, 1942, which reads as follows:

"Will you kindly advise who should pay Special Road district's part of publishing County Financial Statement.

"In other words, should each special road district pay their proportionate part."

Your letter does not disclose what special road district you have in mind. However, from what information the writer can gather as to the special road district in your community I find Pascola, Bragg City and Little Prairie were all formed under the Eight Mile Road District Act, now known as Article 10, Chapter 46, R. S. Missouri 1939. Therefore, in rendering this opinion we have in mind that such road district referred to in your letter to be organized under this same article.

In construing statutory provisions one of the cardinal rules is to construe all provisions which are in pari materia together to determine the legislative intent and then give it that construction. In the case of State ex rel.

McKittrick vs. Carolene Products Co., 144 S. W. (2) 153, 1. c. 156 the court said:

"* * * * *It is our duty to keep the legislative intent in mind, if it can be ascertained, and the whole act, or such portions thereof as are pari materia should be construed together. * * * * *

Therefore, we shall look to the statutes and endeavor to construe same.

Section 13827, R. S. Missouri 1939, provides that a detailed financial statement of the county for the year ending December 31, preceding, shall be made and published by the county court. Among other requirements as to what said financial statement shall contain we find the following requirement:

"On or before the first Monday in March of each year after the taking effect of this law the county court of each county in this state shall prepare and publish in some newspaper of general circulation published in such county, if such there be, and if not by notices posted in at least ten places in such county, a detailed financial statement of the county for the year ending December 31, preceding. Said statement shall show * * * * *. Statements of special road districts shall be included in the county financial statement in the form in which said statements were submitted to and approved by the county court. * * * * *"

Section 13828, R. S. Missouri 1939, provides the county

court shall pay the clerk and publisher for preparing the statement and publishing same and further provides that the person preparing said statement and the publisher shall itemize the amount as properly chargeable to the several funds and the county shall pay out of each fund in the proportion that each item bears to the total cost of preparing and publishing said statement and shall issue warrants therefor. The same section further provides that any part not chargeable to any specific fund shall be paid from the fund from which officers salaries are paid. Section 13828, supra, reads in part as follows:

"The statement shall be set in the standard column width measure that will take the least space and the publisher shall file two proofs of publication with the county court and the court shall forward one proof to the state auditor and shall file the other in the office of the court. The county court shall not pay the publisher until said proof of publication is filed with the court and shall not pay the person designated to prepare the statement for the preparation of the copy for said statement until the state auditor shall have notified the court that said proof of publication has been received and that it complies with the requirements of this section. The statement shall be spread on the record of the court and for this purpose the publisher shall be required to furnish the court with at least two copies of said statement that the same may be pasted on the record. For the preparation of the copy for the statement the court may allow a sum not less than ten cents and not to exceed thirty cents for every hundred words and figures, which sum, if allowed to the clerk of the court, shall be in addition to the salary or fees allowed him by law, and no

pay shall be allowed for pasting a printed copy in the record. In submitting bill to the county court the person preparing the statement and the publisher shall itemize the amount as properly chargeable to the several funds and the county court shall pay out of each fund in the proportion that each item bears to the total cost of preparing and publishing said statement and shall issue warrants therefor: Provided, any part not properly chargeable to any specific fund shall be paid from the fund from which officers salaries are paid..* * * * *

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Section 8691, R. S. Missouri 1939, provides that where any money shall be collected as county taxes for road purposes or for road and bridge purposes upon property within a special road district, or where money shall be collected for pool or billiard table licenses upon business within said special road district the county court shall, as said taxes are paid, apportion and set aside to the credit of said special road district said taxes and also set aside to the credit of the special road district one-half of the amount collected from licenses on pool and billiard tables in said special road district and upon written request the county court shall draw warrants upon the county treasurer payable to the commissioner of the treasury of said special road district the above moneys collected and set aside for the special road district. Section 8691, supra, reads as follows:

"In all counties in this state where a special road district, or districts, has or have been organized, or where a special road district, or districts, may be organized under this article, and where money shall be collected as county taxes for road purposes, or for road and bridge purposes, by virtue of any existing law or laws, or subsequent law or laws that may be enacted, upon property within such special district, or

districts, or where money shall be collected for pool or billiard table licenses, upon business within such special road district, or districts, the county court shall, as such taxes or licenses are paid and collected, apportion and set aside to the credit of such special road district, or districts, from which said taxes were collected, all such taxes so arising from and collected and paid upon any property lying and being within such special district, or districts, and also one-half of the amount collected for pool and billiard table licenses, so collected from such business carried on or conducted within the limits of such special road district; and the county court shall, upon written application by said commissioners of such special road district, or districts, draw warrants upon the county treasurer, payable to the commissioners of such special road district, or districts, or the treasury thereof, for all that part or portion of said taxes so collected upon property lying and being within such special road district, or districts, and also for one-half the amount so collected for pool and billiard table licenses, so collected from such business carried on or conducted within the limits of such special road district, or districts."

In support of this see State ex rel. Moberly Special Road District vs. Burton, 266 Mo. 711 and State ex rel. vs. Barry County, 302 Mo. 280.

The above provision and authority is sufficient proof to show that the county court has no regular custody of any funds belonging to said special road district, but upon application of

the commissioner of said special road district the county court must draw a warrant for such moneys in the county treasury, payable to said commissioner or the special road district treasurer. Furthermore, Section 8699, R. S. Missouri 1939, requires the board to make an annual report or settlement with the county court showing all funds received and the purpose for such expenditures, also a copy of said settlement shall be filed with the city clerk and said settlement may be published in the same newspaper by the city council at the expense of the city and to be paid out of the city treasury. Section 8699, supra, reads as follows:

"The said board shall make an annual settlement with the county court at the August term thereof, which settlement shall contain a full and correct itemized statement of all moneys received and from what sources received and for what purposes the same has been expended, giving each particular item, and shall be subscribed and sworn to by at least two members of said board before some officer authorized by the laws of this state to administer oaths, a copy of which settlement shall be filed with the city clerk, and may be published in some newspaper published in said road district in the discretion of the city council, the expenses of which shall be paid out of the city treasury. Any one or more of said board of commissioners failing to perform the duties required by this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars."

Therefore, it is the opinion of this Department that since the county court does not have in its custody funds belonging to the special road district, there is no specific

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fund whereby the county court may pay for this expense of preparing and publishing the financial statement of the special road district as required under Section 13828, supra, and since under Section 8699, supra, the city is required to pay for a settlement upon publishing a financial statement of the special road district it certainly was the intention of the legislature that such expenditure shall be paid by the county court out of the fund from which are paid officers' salaries.

Respectfully submitted

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APPROVED:

ROY MCKITTRICK
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