

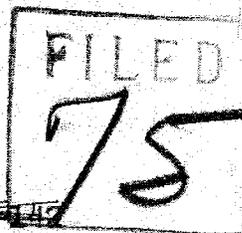
INSURANCE:
COUNTIES:
SPECIAL ROAD DIS-
DISTRICTS:

Neither the county court nor the commissioners of special road districts organized under Article 10, Chapter 46, R.S. Mo. 1939, are authorized to purchase liability and property damage insurance to insure injury, death or damage resulting from the operation of motor vehicles owned and used in the building and maintenance of the district or county, and there is no need for such insurance.

May 15, 1946

FILED 75

~~OPINION NO. 147~~



Honorable James T. Riley
Prosecuting Attorney
Cole County
Jefferson City, Missouri

Dear Mr. Riley:

This will acknowledge receipt of your letter of recent date, requesting an opinion of this department, as follows:

"We respectfully request your opinion on the question of whether or not special road districts organized under Article 10, Chapter 46, R. S. Mo. 1939, or, if the county court may purchase public liability and property damage insurance to cover injury, death or damage resulting from the operation of motor vehicles owned and used in the building and maintenance of the public roads of the district or county.

The specific questions on which we desire your opinion are as follows:

1. Is the county or special road district authorized to expend public funds for the purchase of such liability insurance?
2. Is there any need for the county or the special road district to purchase such public liability insurance?"

This department wrote an opinion to Honorable J. P. Smith, Prosecuting Attorney of Webster County, under date of February 14, 1946, in which we answered the question of whether the county of Webster was authorized to purchase liability insurance covering injury or death to employees working on the public roads of the county, and whether there was any need for the county to purchase such insurance. We are of the opinion that the questions which you present in your letter raise the same legal propositions as we discussed in the above mentioned opinion.

In our former opinion we cite cases which clearly show that the non-liability of the county exists with regard to injury, death, or damage resulting to persons who are not employees of the county as well as to those who are employees of the county. We also cite cases showing that the same rules applicable to counties are also applicable to other political subdivisions of the state and to quasi political subdivisions of the state. The special road districts organized under Article 10, Chapter 46, R. S. Mo. 1939, which you specifically inquire about in your letter, are quasi political subdivisions of the state under the authority of *Lamar v. Bolivar Special Road District* (1918) 201 S. W. 890, 328 Mo. 867. In that case the court held that a special road district organized under the provisions of Sections 10433 to 10665, R. S. Mo. 1939, which sections now comprise Article 10, Chapter 46, R. S. Mo. 1939, is a quasi political subdivision of the county by saying: (l.e. 892)

"(1) We think it is evident that defendant (the special road district) is a quasi political subdivision of Polk County, Mo., and incidentally represents a similar position with reference to the state of Missouri. * * *"

A careful examination of Article 10, Chapter 46, R. S. Mo. 1939, including the amendments thereto contained in House Bill No. 795, passed by the 63rd General Assembly and approved by the Governor, and the case law has revealed no authority for the purchase of the insurance referred to in your letter.

We think, therefore, the opinion of February 14, 1946, is determinative of the issues presented by your letter. We enclose a copy of this opinion for your examination, and also a copy of an opinion to Honorable John W. Mitchell, Assistant Prosecuting Attorney, Buchanan County, which we referred to in the opinion of February 14, 1946.

CONCLUSION

It is, therefore, the opinion of this department, in conformity with our prior opinion, that (1) the county or a special road district, organized under Article 10, Chapter 46, R. S. Mo. 1939, is unauthorized to expend public funds

Hon. James T. Riley

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for the purchase of liability insurance, referred to in your letter; (2) there is no need for the county or a special road district organized under Article 10, Chapter 46, R. S. Mo. 1939, to purchase such liability insurance.

Respectfully submitted,

SMITH N. CROWE, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

SNC:dc