

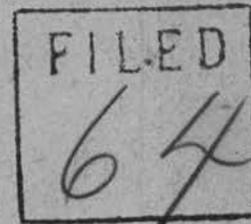
ROADS AND BRIDGES:

Special road district in county under township organization is entitled to

SPECIAL ROAD DISTRICTS:

have returned to such special road district all revenue raised by taxation of property within the special road district under levy authorized by Section 8820,

November 29, 1947, page 483.



Honorable Roscoe E. Moulthrop
Prosecuting Attorney
Harrison County
Bethany, Missouri

12-2

Dear Sir:

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

"In a county having township organization, should county return to special road district all revenue raised by taxation of property within such road district, or is the county entitled to retain up to five cents on the hundred dollars valuation pursuant to Sec. 8820, R. S. A. If such sum is retained what use is to be made thereof in view of the fact that a county has no authority to aid a special road district in maintaining its bridges?"

Section 8820, Laws of Missouri, 1947, Vol. I, page 483, provides as follows:

"In addition to other levies authorized by law, the township board of directors of any township in their discretion may levy an additional tax not exceeding thirty-five cents on each one hundred dollars assessed valuation in their township for road and bridge purposes. Such tax shall be levied by the township board, to be collected by the township collector and turned into the county treasury, where it shall be known and designated as a special road and bridge fund. The county court of any such county may in its discretion order the county treasurer to retain an amount not to exceed five cents on the one hundred dollars

assessed valuation out of such special road and bridge fund and to transfer the same to the county special road and bridge fund; and all of said taxes over the amount so ordered to be retained by the county shall be paid to the treasurers of the respective townships from which it came as soon as practicable after receipt of such funds, and shall be designated as a special road and bridge fund of such township and used by said townships only for road and bridge purposes, except that amounts collected within the boundaries of road districts formed in accordance with the provisions of Article 18, Chapter 46, Revised Statutes of Missouri, 1939, shall be paid to the treasurers of such road districts; provided, that the amount retained, if any, by the county shall be uniform as to all such townships levying and paying such tax into the county treasury; Provided further, that the proceeds of such fund may be used in the discretion of the township board of directors in the construction and maintenance of roads and in improving and repairing any street in any incorporated city, town or village in the township, if said street shall form a part of a continuous highway of the township running through said city, town or village."

It is our opinion that the provision in such section that the county court of any such county may retain an amount not to exceed five cents on the one hundred dollars out of such special road and bridge fund applies only to that part of the tax raised in that part of the townships which are outside the limits of such special road districts. It is to be noted that the provision "except that amounts collected within the boundaries of road districts formed in accordance with the provisions of Article 18, Chapter 46, Revised Statutes of Missouri, 1939, shall be paid to the treasurers of such road districts" was added to Section 8820, Laws of Missouri, 1945, page 1497, when the section was repealed and reenacted in 1947, Laws of Missouri, 1947, Vol. I, page 483. We believe that the addition of such clause shows that the intention of the Legislature was to provide that all moneys raised in a special road district in a county under township organization should be returned to such special road district in view of the fact that the section

provides that all of said taxes over the amount retained by the county should be paid to the treasurers of the respective townships and that such limitation is not found in the quoted provision with regard to special road districts.

We believe an additional fact which is persuasive in ascertaining the intention of the Legislature in enacting such section to be the fact that the county court is not authorized to expend county funds in special road districts in counties under township organization but that Section 8825 provides for the expenditure of county funds in that part of townships which are not in the special road district when bridges to be built will cost more than one hundred dollars.

CONCLUSION

It is the opinion of this department that all moneys raised in a special road district in a county under township organization under a tax authorized by Section 8820, Laws of Missouri, 1947, Vol. I, page 483, are to be returned to such special road districts.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

CBB:VLM