

SCHOOLS:
ROADS AND BRIDGES:
SPECIAL ROAD DISTRICTS:
COUNTY SUPERINTENDENT
OF SCHOOLS:

Secretary of county superintendent of schools may do work for other county officers and receive compensation therefor. Special road district may cease to maintain roads in territory which may or may not be in district.

March 28, 1952

Honorable J. Hal Moore
Prosecuting Attorney
Lawrence County
Mt. Vernon, Missouri



3-31-52

Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your request:

"I would like to submit the following propositions to you in order to receive your opinion on them. Where by law, a clerk, secretary or stenographer of schools is allowed only \$1500.00, can she do additional work for other agencies of the County, particularly the County Court and receive additional compensation for these duties.

"Second proposition. Under your opinion number 65.51, dated December 5th, 1951 you have stated that the County Court is authorized to pay \$600.00 during the calendar year of 1951, for clerical help. Does that mean that the County Court has discretion in this matter, or are they under an absolute duty to pay such sum.

"We have a situation here in Lawrence County which is this. We have a special road district which has been collecting taxes and maintaining the road for a period of eight years off of a small area which they have always considered in their district. On checking the County Court records, we have been unable to ascertain where this small section was noted into their road district. Under this statement of facts, can a special road district now at this time, drop that small area and refuse to maintain their roads.

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If they cannot, what procedure must they take in order to put this small area in a common road district. Am I right in interpreting the law to mean that the special road district would have to disband and reorganize without this small area."

Your first question is whether a "clerk, secretary, or stenographer of schools," who, by law, is allowed only \$1500 for her services as such, can do work for other county agencies and receive compensation therefor in addition to the aforesaid \$1500. We assume that when you say "clerk, secretary, or stenographer of schools," you mean the secretary of the county school superintendent, who is, by law, limited to a salary of \$1500 per year.

In answer to this question we enclose a copy of an opinion rendered by this department on March 23, 1949, to Honorable Bert Cooper, Director, Department of Business and Administration of the State of Missouri. We believe that the fact situation in the enclosed opinion is sufficiently analagous to that stated by you to apply, and that, on the authority of the enclosed opinion the answer to your first question is that the secretary of the county superintendent of schools may be employed by other county agencies and may receive from them compensation in addition to that she receives as secretary for the county school superintendent.

Your second question refers to the meaning of an opinion rendered by this department on November 27, 1951, to Honorable Robert B. Osborn, Prosecuting Attorney of Reynolds County. A copy of this opinion is enclosed. There is also enclosed a copy of our opinion rendered by this department December 31, 1951, to Honorable Joe Collins, Prosecuting Attorney of Cedar County, Missouri, which we believe answers your second question.

Your third question relates to the matter of excluding from a special road district an area which has heretofore been treated as being part of such district. From your statement of the fact situation it appears that for the past eight years the officers of the special road district have been collecting taxes on the area in question and have been maintaining the roads in that area; in other words, proceeding on the assumption that this area was a part of the special road district. It now seems that the officers of the special road district are of the opinion that this particular area never was a part of the special road district. Whether this area was or was not is of course a matter

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of fact, and the fact that for eight years it was assumed to be, is no proof that it is part of the special road district.

Of course the officers of the special road district can cease to receive the percentage of taxes a special road district is entitled to receive from the people who live in the area which you mention, and cease to maintain the roads in that area. If, thereafter, the residents of this area bring suit against the officers of the special road district for their failure to maintain the roads in that area, the court would have to decide whether this area was or was not in the special road district, and that decision would be determinative of the whole matter whichever way the court decided.

CONCLUSION

It is the opinion of this department:

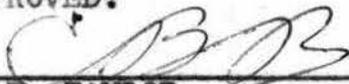
1. That the secretary of the county superintendent of schools may do work for other county officers and receive compensation therefor, in addition to the compensation which is received as secretary for the county superintendent of schools, provided such additional work does not interfere with or conflict with the duties of the secretary of the county superintendent of schools.

2. Special road district may cease to receive the percentage of taxes a special road district is entitled to receive from the persons who live in territory about which there is a dispute as to whether or not such territory is part of such road district and may refuse to maintain the roads in such territory.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:



J. E. TAYLOR
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Enclosures.

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