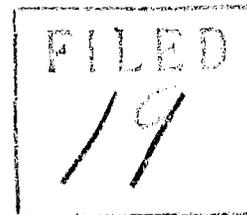


ROADS & BRIDGES:
SPECIAL ROAD DISTRICTS:

Territory of extended special road districts must be included in an area twelve miles square.

February 18, 1947



Honorable Phil H. Cook
Prosecuting Attorney
Lafayette County
Lexington, Missouri

Dear Mr. Cook:

This will acknowledge your request for an official opinion regarding the extension of the Odessa Special Road District in Lafayette County, as provided in Section 8708, R. S. Mo. 1939. This section is contained in Article 10, Chapter 46, which pertains specifically to what is commonly characterized as "eight mile special road districts".

Section 8708 in part provides:

"* * * Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than twelve miles square."

After carefully studying the diagram of the proposed extension, which you submitted with your letter, it appears that if the road district was extended as proposed it would extend ten miles in one direction and in excess of twelve miles in the other direction, however, it would only contain a hundred and twenty square miles. The question then proposed is whether or not the road district in question could be extended as contemplated, and fall within the statutory limits as indicated in Section 8708, supra, which says that after the extension of any special road district it shall not be more than twelve miles square.

The same problem could exist in the initial organization of an eight mile road district for Section 8673, R. S. Mo. 1939 provides that territory not exceeding "eight miles square" may be organized into a special road district. An area eight miles square would contain sixty-four square miles, but, for example, could a special road district be organized under the provisions of Section 8673 possessing the dimensions of being thirty-two miles long and two miles wide? We believe not because such territory could not be contained within an area eight miles square.

A careful research fails to disclose that the appellate courts

of this state have ever ruled on the precise question at hand, therefore we must ascertain the intent of the lawmakers from the language used in the statute and give to such language its plain and rational meaning. *Donnelly Garment Company v. Keitel*, (Mo. Sup.) 193 S. W. (2d) 577.

The plain wording of Section 8708, supra, specifically states that an extended special road district shall not be more than twelve miles square and, while such an area would contain 144 square miles, it cannot be said that a special road district could be extended, regardless of its dimensions, so long as it didn't include more than 144 square miles. The statute by expressly limiting the boundaries of extended special road districts by one means exclude their boundaries being limited by another means. Thus, the expression of one limitation is the exclusion of another.

It has been held that the proceedings prescribed by statute for the organization of special road districts must be scrupulously followed. *State ex inf. Gentry v. Hughesville Special Road District of Pettis County*, 319 Mo. 1246, 6 S. W. (2d) 594. We believe that the same rule would apply for the extension of special road districts, and that a special road district could not be extended beyond the physical limitations prescribed in the statute.

In the case at hand, if the special road district was extended as proposed and illustrated it would be physically impossible for it to be encompassed by an area twelve miles square.

CONCLUSION

Therefore, it is the opinion of this department that a special road district extended under the provisions of Section 8708, R. S. Mo. 1939, must possess such dimensions as to permit its inclusion within an area not more than twelve miles square.

Respectfully submitted,

APPROVED:

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