

ROADS AND BRIDGES:

County court cannot collect from special road district for repairs to bridge in such special road district; may assist special road district organized under Art. 10, Chap. 46, R.S. 1939, in maintaining bridges, such money to be paid out of class 6 of the budget; cannot pay for maintaining a bridge in a special road district organized under Art. 11, Chap. 46, R.S. 1939.

January 27, 1948



Honorable Frank M. Adams  
Prosecuting Attorney  
Polk County  
Bolivar, Missouri

Dear Sir:

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

"Please give me an opinion on the following question:

"Sections 8534, 8535 and 8526 relate to the liability of counties and special road districts with reference to building and maintaining of bridges. They provide for bridges and culverts costing more than \$50.00 to build or repair and state that the Special Road districts cannot be made to do any work if the cost is more than \$50.00.

"Sections 10911 and 10914 of the budget law, provide that no money shall be spent in special road districts by the county.

"The fact situation in my question is as follows: We have a large bridge in this county (Polk) over the Pomme De Terra river. The line between a special road district and the common district is the middle of the river, so that about half of the bridge is in the county common district and half in a special road district. The county court had never specified whether they would keep the bridge in repair or the special. The county court did order material and had a new floor put in, and sent a bill for one half of the cost

it being more than \$50.00. The special refuses to pay the bill.

"Question: Can the county court collect the one half repair bill from the special road district? If the answer is no, then can the county court pay the cost themselves from the funds in the Special road and bridge fund?"

In your letter you refer to Sections 8534 and 8535, and, we believe inadvertently, to Section 8526, when you mean Section 8536, as having reference to the liability of counties and special road districts regarding the building and maintaining of bridges. It is our view that Sections 8534, 8535 and 8536 do not refer to special road districts, but refer to common road districts, since Articles 10, 11 and 18 of Chapter 46, R.S. Mo. 1939, treat in detail with regard to special road districts.

We are unable to find any provision of law under which the county court could collect from a special road district for its voluntary action in repairing a bridge in a special road district.

In your letter you have not stated whether in Polk County, a county not under township organization, the special road district you refer to is one organized under the provisions of Article 10 of Chapter 46 or under the provisions of Article 11 of Chapter 46. Therefore, this opinion will discuss the question of the payment of such repair bill by both a road district formed under the provisions of Article 10 of Chapter 46 and a road district formed under the provisions of Article 11 of Chapter 46.

We are enclosing a copy of an official opinion of this department rendered under date of December 30, 1947, to Theo. R. Schneider, in which the question of the right of the county court to assist in building and maintaining bridges in a road district formed under the provisions of Article 18, Chapter 46, is discussed. While your county is not one under township organization, we believe the conclusion reached with regard to a road district formed under the provisions of Article 18, Chapter 46, apply equally to road districts formed under the provisions of Article 11, Chapter 46, since Section 8714 of Article 11 provides that the commissioners of the road district shall have sole, exclusive and entire control and jurisdiction over all public highways, bridges and culverts within the district, to construct, improve and repair such highways, bridges and culverts, and shall at all times keep such roads, bridges

and culverts in as good condition as the means at their command will permit, and for the further reason that there is no provision in such Article 11 authorizing the granting of assistance by the county court in repairing bridges in such a road district.

Since Sections 10911 and 10914 of the budget law of this state provide that expenditures out of class 3 are not to be made by the county court in any special road district, it is our opinion that the expenditures authorized for the repairing of bridges in special road districts organized under the provisions of Article 10, Chapter 46, found in Section 8688, R.S. Mo. 1939, should be made out of class 6 of the county budget.

Since there is no authority for the county to expend money to repair bridges in special road districts organized under Article 11, Chapter 46, the county has no authority to pay for such repairs out of the county funds.

#### CONCLUSION

It is the opinion of this department that the county court cannot collect from a special road district for the repairs to a bridge in such special road district.

It is further the opinion of this department that repairs to a bridge in a special road district in Polk County organized under the provisions of Article 10, Chapter 46, R.S. Mo. 1939, may be paid for out of funds in class 6 of the county budget.

It is further the opinion of this department that the county court cannot pay out of county funds for repairs of a bridge in a special road district organized under the provisions of Article 11, Chapter 46, R.S. Mo. 1939.

Respectfully submitted,

C. B. BURNS, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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