

SCHOOLS:
SCHOOL DISTRICTS:
TAXATION:
CONSTITUTIONAL LAW:

School district governed by three directors, but containing within its boundaries incorporated village, may levy a tax of one dollar on the \$100 assessed valuation without a vote of the people. Elections conducted under laws applicable to common school districts.

June 17, 1955

Honorable Thomas V. Proctor
Prosecuting Attorney
Monroe County
Paris, Missouri

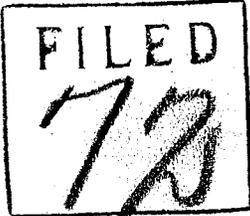
Dear Mr. Proctor:

This is in response to your request for opinion dated April 23, 1955, which reads as follows:

"There is a school district in this county commonly called the Stoutsville School District. It is a common School District but has within its bounds the Village of Stoutsville which is an incorporated village and has about 175 inhabitants. The School District is composed of the village of Stoutsville and surrounding territory.

"The above mentioned school district has been having trouble in voting a school levy of \$2.65 on the one hundred dollars valuation for school purposes. They have been operating upon the theory that the above mentioned levy had to carry by a two thirds majority.

"I have noted that Article X, Section 11(b) of the constitution of Missouri was amended in 1950, and now provides that in school districts in which are located cities, towns or villages, the school boards may levy a \$1.00 tax on the \$100.00 valuation. The above article of the Constitution further provides that school district taxes may be voted and increased by a majority vote for a one year period if the total levy does not exceed three times the constitutional limit as is provided in paragraph four of the above mentioned article of the constitution. In other words the sum of \$3.00 on the one hundred dollars valuation.



Honorable Thomas V. Proctor

"The above mentioned school district is not organized into a City, Town or Consolidated District as is provided in Section 165.263, R.S. 1949, but is as above stated a common school district.

"Will you please advise me if it is your learned opinion that the above Stoutsville School District can vote a \$2.65 tax levy for school purposes by a majority vote instead of a two thirds vote, and if so may they so do at an election that is held under the regulations of elections for common school districts."

Section 11(b), Article X, Constitution of Missouri, reads, in part, as follows:

"Any tax imposed upon such property by municipalities, counties or school districts, for their respective purposes, shall not exceed the following annual rates:

* * * * *

"For school districts formed of cities and towns - one dollar on the hundred dollars assessed valuation, except that in the city of St. Louis the annual rate shall not exceed eighty-nine cents on the hundred dollars assessed valuation;

"For all other school districts - sixty-five cents on the hundred dollars assessed valuation."

Section 11(c), Article X, Constitution of Missouri, 1945, as amended in 1950, to which you also refer, reads, in part, as follows:

"In all municipalities, counties and school districts the rates of taxation as herein limited may be increased for their respective purposes for not to exceed four years, when the rate and purpose of the increase are submitted to a vote and two-thirds of the

Honorable Thomas V. Proctor

qualified electors voting thereon shall vote therefor; provided in school districts the rate of taxation as herein limited may be increased for school purposes so that the total levy shall not exceed three times the limit herein specified and not to exceed one year, when the rate period of levy and the purpose of the increase are submitted to a vote and a majority of the qualified electors voting thereon shall vote therefor;
* * *

The question is whether a school district governed by three directors, and hence under the classification laws a common district, but containing within its boundaries an incorporated village, may levy a tax of \$2.65 for one year upon a majority vote.

It was held in State ex rel. Brown v. Woods, 332 Mo. 1123, 61 S.W. (2d) 732, that similar provisions under the 1875 Constitution were self enforcing. This proposition was reaffirmed in Vanlandingham v. Reorganized School District No. R-IV of Livingston County (Mo.), 243 S.W. (2d) 107, 110. Although the Legislature may enact laws classifying school districts, as was held in both of the above cases, such laws for the purpose of limiting the rate of taxation may not be more restrictive than the constitutional provision with respect thereto.

The Constitution makes no mention of the number of directors which a district must have before it can levy a tax of one dollar on the \$100 assessed valuation without a vote of the people, but merely requires that it be formed of a city or town. Under the definition of "town" as given in the Vanlandingham case, we are of the opinion that Stoutsville is a town within the meaning of Section 11(b), Article X, Constitution of Missouri, and that the Stoutsville School District may levy a tax of one dollar on the \$100 assessed valuation without a vote of the people.

It necessarily follows that under Section 11(c), Article X, Constitution of Missouri, 1945, as amended in 1950, it may also levy a tax of two dollars and sixty-five cents for one year upon a majority vote since that is within the limit specified therein.

Honorable Thomas V. Proctor

You have informed us that under the classification law, Section 165.010, RSMo, Cum. Supp. 1953, the Stoutsville District is a common district. Therefore, the election should be held in accordance with the laws applicable to common school districts and those applicable to all districts generally.

CONCLUSION

It is the opinion of this office that a school district governed by three directors, but containing within its boundaries an incorporated village, may levy a tax of one dollar on the \$100 assessed valuation without a vote of the people. It is the further opinion of this office that elections held for the purpose of increasing the rate of taxation in such a district should be conducted in accordance with the laws applicable to common school districts and those applicable to all districts generally.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON
Attorney General

JWI:ml:gm