

SCHOOLS:  
STATE AID:

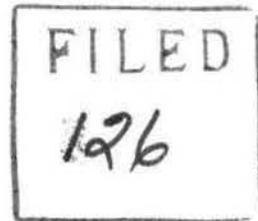
Where the assessment of property in a school district is reduced by the State Tax Commission to a point where

the district's levy is not sufficient to qualify it for the additional state aid for tax effort provided in Section 163.031(1), V.A.M.S. Senate Bill Nos. 1, 185 and 215, Seventy-fifth General Assembly, and the district does not increase its tax rate before the year ends, the district can do nothing thereafter to qualify for the additional state aid for tax effort provided in Section 163.031(1).

OPINION NO. 126

July 21, 1970

Honorable Edward M. Cannon  
State Representative  
District No. 101  
Rural Route No. 2  
Troy, Missouri 63379



Dear Representative Cannon:

This official opinion is issued in response to your request for a ruling on a question arising out of the following fact situation. On February 10, 1969, the Louisiana R-II District Board of Education approved a preliminary budget for the 1969-70 school year, pursuant to Section 164.011, RSMo 1967 Supp. An estimated valuation of property in the Louisiana R-II School District on \$13,200,000 was used by the Board of Education at their meeting on February 10, 1969, and a total levy of \$3.61 was arrived at.

On April 1, 1969, the annual school election for the Louisiana R-II School District was held and the voters approved a levy of \$1.86 in addition to the \$1.25 levy which can be levied without voter approval. With a debt service levy of 50 cents set by the Board of Education, a total levy of \$3.61 resulted.

By letter dated July 28, 1969, the Pike County Clerk notified the Louisiana R-II School District that the county's assessed valuation had been increased by ten percent or more over the prior year's valuation. The new valuation for the Louisiana R-II District was \$16,328,675. The letter requested that the district recertify and submit a lower rate of levy pursuant to the requirements of Section 137.073, RSMo 1959.

On August 18, 1969, the School Board of the Louisiana R-II District, taking into consideration all the factors set forth in Section 137.073, RSMo 1959, approved a new levy of \$3.06 which would produce substantially the same revenue as would be produced by \$3.61 on the lower valuation.

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On December 16, 1969, the Board of Education of the Louisiana R-II District was informed by the county clerk that, due to action taken by the State Tax Commission in reducing the assessment of one taxpayer, the assessed valuation for the district had been reduced to \$14,358,265. In the information attached to your opinion request we are advised that a \$3.06 levy in 1969 was not sufficient to qualify for additional state aid for tax effort pursuant to Section 163.031(1), V.A.M.S., Senate Bill Nos. 1, 185 & 215, Seventy-fifth General Assembly.

In light of the foregoing facts, your question is whether the Louisiana R-II District can participate in the additional state aid for tax effort provided in Section 163.031(1).

Section 163.031(1) provides in part as follows:

" . . . A school district which levies a property tax that produces an amount not less than the product of a three dollars and fifty cents for each one hundred dollars tax on the property of the district assessed at thirty percent of true value as determined by the state tax commission on or before February first of the year preceding the fiscal year in which the evaluation will be effective or the average percent of true value for the highest three of the last four years as determined and certified by the state tax commission on or before February first preceding the fiscal year in which the evaluation will be effective, whichever is greater, shall be entitled to the sum of fourteen dollars per resident pupil in average daily attendance."

From the facts furnished by you which are set forth above, the Louisiana R-II District was forced by compliance with statutory directives to reduce its levy below the level which would have qualified it for the additional state aid provided in Section 163.031(1). When the county clerk advised the school district on July 28, 1969, that the assessed valuation of the district had been increased by more than ten percent, the district was required by Section 137.-073 to reduce the amount of the levy previously determined if it could be reduced without violating two provisos applicable to public schools.

"Whenever the assessed valuation of real or personal property within the county has been increased by ten per cent or more over the prior year's valuation, either by an order of

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the state tax commission or by other action, and such increase is made after the rate of levy has been determined and levied by the county court, city council, school board, township board or other bodies legally authorized to make levies, and certified to the county clerk, then such taxing authorities shall immediately revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy. Where the taxing authority is a school district it shall only be required hereby to revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy, plus such additional amounts as may be necessary approximately to offset said district's reduction in the apportionment of state school moneys due to its increased valuation. The lower rate of levy shall then be recertified to the county clerk and extended upon the tax books for the current year. The term 'rate of levy' as used herein shall include not only those rates the taxing authorities shall be authorized to levy without a vote, but also those rates which have been or may be authorized by elections for additional or special purposes. No levy for public schools or libraries shall be reduced below a point that would entitle them to participate in state funds. [Emphasis added]

The language of Section 137.073 is mandatory -- ". . . such taxing authorities shall immediately revise and lower the rates of levy . . ." [Emphasis added]. Further, taxes levied by a taxing authority which are not in compliance with Section 137.073 are illegal. Allen v. Roam, 308 S.W.2d 787, 789 (Spr.Ct.App. 1958).

We can find no statutory provision making the duties of the Louisiana R-II District, under Section 137.073, subject to the right granted to any taxpayer under Section 138.420 to obtain a rehearing or, under Section 138.460, to file a complaint with the State Tax Commission prior to September 30, contesting an assessment made against his property. Therefore, the Louisiana R-II School District was required to comply with Section 137.073 even though any taxpayer whose assessment has been raised had a right to appeal this increase to the State Tax Commission.

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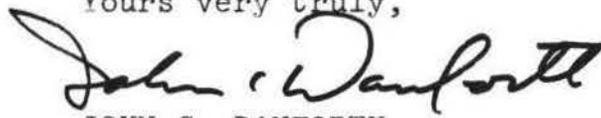
On August 18, 1969, the Louisiana School Board complied with its mandatory duty under Section 137.073 and reduced its tax rate to \$3.06. It is assumed that a \$3.06 tax rate would have been sufficient to qualify the district for additional state aid for tax effort had the district's assessed valuation remained at \$16,328,675. However, when the assessed valuation was lowered in December 1969, we are advised in the opinion request that \$3.06 is no longer sufficient to qualify the district for additional state aid for tax effort. No increase in the district's levy having been authorized in 1969, the district cannot now qualify for this additional state aid for the 1969-70 school year.

#### CONCLUSION

Therefore, it is the conclusion of this office that where the assessment of property in a school district is reduced by the State Tax Commission to a point where the district's levy is not sufficient to qualify it for the additional state aid for tax effort provided in Section 163.031(1), V.A.M.S., Senate Bill Nos. 1, 185 and 215, Seventy-fifth General Assembly, and the district does not increase its tax rate before the year ends, the district can do nothing thereafter to qualify for the additional state aid for tax effort provided in Section 163.031(1).

The foregoing opinion, which I hereby approve, was prepared by my Assistant, D. Brook Bartlett.

Yours very truly,



JOHN C. DANFORTH  
Attorney General