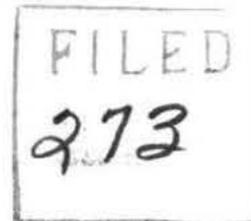


(Answer by Letter) C. B. Blackmar

April 23, 1970

OPINION LETTER NO. 273

Honorable Joe D. Holt
State Representative
District 102
829 Center Avenue
Fulton, Missouri 65251



Dear Representative Holt:

This letter is issued in response to your request of March 30, 1970, in which you ask the opinion of this office about certain questions relating to the organization and bonded indebtedness of fire protection districts in counties of the third class, under Chapter 321, RSMo, as amended by House Bill No. 322, Seventy-Fifth General Assembly, in 1969.

Organization

By reason of House Bill No. 322, Seventy-Fifth General Assembly, we now have a uniform procedure for the establishment of fire protection districts in all counties of the state. This was accomplished by amending Section 321.020, RSMo, so that it would apply to all counties, and by repealing the provisions relating specially to counties of the second, third and fourth class.

The effect of these amendments is to make Sections 321.030 through 321.070, RSMo 1959, applicable to all counties. They formerly applied only to counties of class one. These sections describe the detailed procedure for the formation of fire protection districts. We attach copies of these sections for your convenience.

The sections specify a procedure which is, summarily, as follows;

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(a) A petition must be signed by at least one hundred taxpaying electors of the proposed district (Section 321.030);

(b) The detailed contents of the petition are specified in Section 321.040;

(c) Notice is given by publication, specifying a hearing date not less than thirty days nor more than sixty days following the filing of the petition (Section 321.070);

(d) One or more taxpaying electors may file a protest petition, any time before the hearing date (Section 321.090).

Issuance of Bonds

Bonds of fire protection districts are governed by Section 26 of Article VI of the Missouri Constitution, and by Sections 321.340 through 321.380 of the Missouri Revised Statutes. Sections 321.340 and 321.380 are in the same form now that they were in 1959. The intervening sections were amended by House Bill No. 322, Seventy-Fifth General Assembly, in 1969.

The limitation on amount of bonded indebtedness is found in Section 26(b) of Article VI of the Missouri Constitution, and amounts to five percent of the taxable tangible property in the district as shown by the last completed assessment for state and county tax purposes.

Bonds may be authorized by two-thirds vote of those casting ballots at a general or special election. The board of directors of the district may authorize the placing of a bond proposal on the ballot, by resolution. See Section 321.350, RSMo, House Bill No. 322, Seventy-Fifth General Assembly (1969); Section 321.380, RSMo 1959; Missouri Constitution, Article VI, Section 26(b).

The authority of a district in a third class county to levy taxes is found in Section 321.240, House Bill No. 322, Seventy-Fifth General Assembly, and in Section 321.260, RSMo 1959. The effect of the 1969 amendments is to make both of these sections applicable to fire protection districts established in third class counties. Section 321.240 provides for the basic levy and specifies that ". . .in addition thereto, . . ." the board may ". . . fix a rate of levy which will enable it to promptly pay in full when due all interest on and principal of bonds. . . ." By reason of Section 26(f) of Article VI of the Missouri Constitution, bonded indebtedness may not be incurred until the issuing authority has made provision for an annual levy sufficient to discharge the principal and interest of the bonds within twenty

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years. Under Section 321.260, RSMo 1959, a fire protection district may levy such additional taxes as are necessary to prevent default on bonded indebtedness.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosures