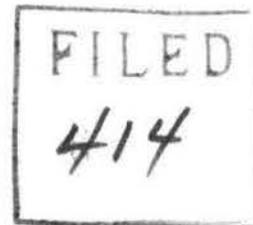


Answer by Letter (Klaffenbach)

July 13, 1970

OPINION LETTER NO. 414

Honorable Robert E. Young
State Representative
District No. 133
208 West Macon Street
Carthage, Missouri 64836



Dear Representative Young:

This letter is in response to your opinion request, in which you ask whether the second paragraph of Section 17 of Senate Bill No. 22 of the Seventy-fifth General Assembly is in violation of Section 23 of Article III of the Missouri Constitution relating to titles of bills.

The provision in question is presently designated by the Revisor of Statutes as Section 59.319 and states as follows:

"A user fee of one dollar shall be charged and collected by every recorder in this state, over and above any other fees required by law, as a condition precedent to the recording of any instrument conveying real property or any interest therein. The fee shall be forwarded monthly by each recorder of deeds to the state collector of revenue, and the fees so forwarded shall be deposited by the collector in the state treasury."

Senate Bill No. 22 is titled "AN ACT Relating to a state land survey authority, with penalty provisions and with an effective date." The Act creates a "State Land Survey Authority". Section 17, as indicated, provides for the collection of a user fee of one dollar.

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Section 23 of Article III of the Missouri Constitution states:

"No bill shall contain more than one subject which shall be clearly expressed in its title, except bills enacted under the third exception in Section 37 of this article and general appropriation bills, which may embrace the various subjects and accounts for which moneys are appropriated."

It is clear that this section of the Constitution is mandatory and the title of an act should point to a single subject matter and matters germane thereto. Williams v. Atchison, T. & S. F. Ry. Co., 233 Mo. 666, 136 S.W. 304. A legislative act is not unconstitutional as covering more than one subject if all matters contained therein are germane to the general subject. Spitcaufsky v. Hatten, 353 Mo. 94, 182 S.W.2d 86.

Likewise, the courts have held that where the title of a legislative bill is general, it is more comprehensive than when it descends to particulars. Downey v. Schrader, 353 Mo. 40, 182 S.W.2d 320. The mere generality of the title will not prevent the act from being valid where the title does not tend to cover up or obscure legislation which is in itself incongruous, and has no necessary or proper connection. State v. Mullinix, 301 Mo. 385, 257 S.W. 121.

Titles of acts should be liberally construed to support the power sought to be exercised by the legislature. Willhite v. Rathburn, 332 Mo. 1208, 61 S.W.2d 708.

Legislation will be upheld in case of doubt if it is germane to the title, and relates either directly or indirectly to the main subject of the act. State ex rel. Lorantos v. Terte, 324 Mo. 402, 23 S.W.2d 120. Further, the court in determining whether the title to a bill is liable to mislead the members of the legislature may trace the act in its passage through the legislature. State ex rel. United Rys. Co. v. Wiethaupt, 231 Mo. 449, 133 S.W. 329.

Senate Bill No. 22 as introduced in the Seventh-fifth General Assembly contained the provision in question under what was designated as Section 18. The original introduced version stated that Section as follows:

Section 18. For the purpose of financing the work of this authority, and providing the funds necessary for its work, a user fee of one dollar shall be charged and collected by every recorder in this state, over and above any other fees required by law,

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as a condition precedent to the recording of any instrument conveying real property or any interest therein. The fee shall be forwarded monthly by each recorder of deeds to the state collector of revenue, and the fees so forwarded shall be deposited by the collector in the state treasury." (Emphasis added).

The portion of the section which we have underscored above, was eliminated in the perfected version of the bill, and in addition, the perfected version of the bill added to the title the words "and with an effective date".

In our view, this section was intended by the legislature to relate to the financing of the Authority, and for that reason, was and is germane to the title of the act. Presumably the portion omitted in the perfected version was omitted for the purpose of eliminating unnecessary language. This does not, in our view, detract from the obvious legislative intent that the user fee has a germane relationship to the entire act.

For the reasons stated, we are of the opinion that the provision in question is not in violation of Section 23 of Article III of the Constitution.

Very truly yours,

JOHN C. DANFORTH
Attorney General