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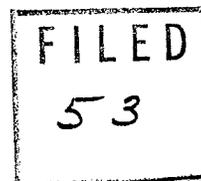
JEFFERSON CITY
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April 1, 1985

OPINION LETTER NO. 53-85

The Honorable James "Jay" Russell
Representative, District 75
House Post Office
State Capitol Building
Jefferson City, Missouri 65102



and

The Honorable Lester Patterson
Representative, District 48
House Post Office
State Capitol Building
Jefferson City, Missouri 65102

Dear Representatives Russell and Patterson:

This letter is in response to your question asking:

May funds which are collected pursuant to Section 47(a) of Article IV of the Constitution of Missouri be used for the support of parks owned and/or operated by cities, counties, special taxing districts, or other local government entities?

The constitutional provisions to which you refer, effective July 1, 1985, provide as follows:

Section 47(a). For the purposes of providing additional moneys to be expended and used by the department of natural resources, for the conservation and management of the soil and water resources of this state and the control, management and regulation of the state parks, and for the administration of the laws pertaining thereto, an additional sales tax of one-tenth of one percent is hereby levied and imposed upon all sellers for the privilege of selling tangible personal property or rendering taxable services

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at retail in this state upon the sales and services which now are or hereafter are listed and set forth in, and, except as to the amount of tax, subject to the provisions of and to be collected as provided in the "Sales Tax Law" and subject to the rules and regulations promulgated in connection therewith; and an additional use tax of one-tenth of one percent is levied and imposed for the privilege of storing, using or consuming within this state any article of tangible personal property as set forth and provided in the "Compensating Use Tax Law" and, except as to the amount of the tax, subject to the provisions of and to be collected as provided in the "Compensating Use Tax Law" and subject to the rules and regulations promulgated in connection therewith. [Emphasis added.]

Section 47(b). The moneys arising from the additional sales and use taxes provided for in section 47(a) hereof shall be expended pursuant to appropriation by the General Assembly and used by the department of natural resources for the conservation and management of the soil and water resources of the state and for the control, management and regulation of the state parks, and for the administration of the laws pertaining thereto, and for no other purpose. Fifty percent of the moneys and funds of the department arising from the additional sales and use taxes provided for in 47(a) hereof shall be appropriated for soil and water conservation and fifty percent shall be appropriated for the state parks. [Emphasis added.]

Such sections originated as part of House Joint Resolution No. 21, Eighty-Second General Assembly, Second Regular Session, and were approved by the voters on August 7, 1984. The ballot title to such amendment, which was provided by the Committee on Legislative Research, stated, in pertinent part:

Levies additional sales tax of one-tenth of one percent, one-half to be used for state park purposes; one-half for soil and water conservation purposes. Expires five years after adoption.

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The rules of construction employed by the Missouri courts for statutory interpretation generally apply also to the interpretation of constitutional provisions. Section 1.090, RSMo 1978, provides:

Words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

We understand that the point has been raised that Chapter 253, RSMo 1978 and Supp. 1984, applies to "state parks" and that within this chapter there are also provisions relating to subjects such as historic preservation. Accordingly the argument is made that the broad inclusion of other matters in Chapter 253 which do not relate to state parks in the ordinary sense could authorize an interpretation of Sections 47(a) and 47(b) to allow expenditures in support of local government parks. We do not agree. The mere placement of an unrelated provision in a chapter in the Revised Statutes does not, in our view, give such placement any reliable significance with respect to the chapter as a whole. This is particularly obvious with respect to the sections relating to historic preservation, Sections 253.400 to 253.407, RSMo Supp. 1984, which had no such statutory section designation when enacted. See Senate Bill No. 127, Mo. Laws 1979, p. 433. In fact, it has been held that the legislature has no power to give the Constitution an interpretation which would be contrary to its terms. Mobil Oil Corporation v. Danforth, 455 S.W.2d 505, 508 (Mo. banc 1970). Nor do we believe that it could be reasonably concluded that the people voted on a constitutional amendment with the belief that its terms might be qualified by some previously enacted, unrelated statutory provision.

Therefore, it is our view that where such constitutional provisions refer to "the control, management and regulation of the state parks" the plain meaning of the language mandates a construction which would limit it to "state parks" and not include political subdivision's parks.

Very truly yours,


WILLIAM L. WEBSTER
Attorney General