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OPINION LETTER NO. 14-87

The Honorable Merrill Townley
Representative, District 111
Route 1
Chamois, Missouri 65024



Dear Representative Townley:

This opinion is in response to your question asking:

Did the Amendment #2 (HJR 21) to the Missouri Constitution which was adopted August 7, 1984, that amended Article IV Section 47, specifically prohibit use of the 1/10 cent sales tax for control of stream bank erosion?

Section 47(a) of Article IV of the Missouri Constitution provides for the levy of a sales and use tax for the purpose of providing additional money for the conservation and management of the soil and water resources of the state and the control, management and regulation of the state parks and for the administration of the laws pertaining thereto. According to Section 47(b) of the same article, any money raised from the additional sales and use taxes can be used by the Department of Natural Resources for the conservation and management of the soil and water resources of the state, for the control, management and regulation of the state parks and for the administration of the laws pertaining thereto and for no other purposes. Further, the expenditure of said money shall be made pursuant to appropriation by the General Assembly. Based upon the additional information in the request, your question relates to the use of the revenue from the additional sales and use taxes for the conservation and management of the soil and water resources of the state. This opinion will not address the use of revenue from the additional sales and use taxes for the control, management and regulation of the state parks.

The Honorable Merrill Townley

Clearly, Section 47 of Article IV of the Missouri Constitution does not specifically mention stream bank erosion. In order to utilize revenue from the additional sales and use taxes for the control of stream bank erosion, such usage of the revenue must fall within the purpose of the conservation and management of the soil and water resources of the state. If control of stream bank erosion is not such a purpose, no revenue from the additional sales and use taxes may be used for control of stream bank erosion.

No definition of the conservation of soil and water resources of the state appears in Section 47, Article IV of the Missouri Constitution. According to Buechner v. Bond, 650 S.W.2d 611, 613 (Mo. banc 1983), words used in constitutional provisions are interpreted so as to give effect to their plain, ordinary and natural meaning. Obviously, stream banks involve the soil and water resources of the state. Therefore, the plain, ordinary and natural meaning of the conservation of soil and water resources would include the preservation of a stream bank from erosion.

It is the opinion of this office that Section 47 of Article IV of the Missouri Constitution does not specifically prohibit the use of additional sales and use tax revenues for control of stream bank erosion if appropriated by the General Assembly.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General