

CONSTITUTION.

✓ GENERAL ASSEMBLY.

STATE HIGHWAY. AMENDMENT.

Section 44a, Article IV, Constitution of Missouri only prevents the General Assembly from raising fees and taxes provided for in such Section 44a.

10-27
October 25, 1933



Honorable Michael E. Casey
Capitol Building
Jefferson City, Missouri

Dear Senator Casey:

Replying to your inquiry directed to this office, namely,

"Does Section 44a of Article IV of the Constitution of the State of Missouri contain any provision which would prevent the 57th General Assembly proposing an amendment to the Constitution of the State, seeking to raise the level of fees and taxes now fixed or provided for by such Section 44a?"

Section 2 of Article II of the Constitution of the State of Missouri provides:

"That the people of this State have the inherent, sole and exclusive right to regulate the internal government and police thereof, and to alter and abolish their Constitution and form of government whenever they may deem it necessary to their safety and happiness: Provided, Such change be not repugnant to the Constitution of the United States."

With reference to the right of the people to amend the Constitution of this State, in State ex rel. v. Bernoudy, 40 Mo. 192, 194, the Supreme Court of this State said:

"A power to amend the Constitution in all respects deemed essential for the public good, or to alter or abolish it, if it were deemed necessary for their safety and happiness, necessarily includes the power to amend it in any particular as well as in its total scope."

The only part of Section 44a, Article IV, of the Constitution which, expressly or impliedly, undertakes to fix a stationary level of fees and taxes with reference to motor vehicles and motor vehicle fuels, is the following:

"For a period of ten years after the adoption hereof, the General Assembly shall have no power to levy and collect state registration fees, license taxes or other taxes on motor vehicles (except the property tax on motor vehicles and state license fees or taxes on motor vehicle common carriers) or state taxes on the sale or use of motor vehicle fuels in excess of the rates fixed by law at the time this amendment is adopted, except that in the event the proceeds from such registration fees, license taxes or other taxes on motor vehicles (except the property tax on motor vehicles and state license fees or taxes on motor vehicle common carriers) and state taxes on the sale or use of motor vehicle fuels shall not be sufficient to produce funds requisite to pay the costs and expenses herein authorized and for the payments to sinking fund, for interest and for the proper maintenance of state highways as herein provided, then the General Assembly may increase the rates of such registration fees, or license taxes on motor vehicles or taxes on the sale or use of motor vehicle fuels to an amount sufficient to provide for such payment and the proper maintenance of state highways in order to avoid the levy of a direct tax on property in the State to meet such deficiencies."

It is apparent that the limitation is directed to legislation by the General Assembly and not to the inherent power of the citizens of the state to amend their constitution,

Honorable Michael K. Casey

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or the right of the General Assembly to propose an amendment to the Constitution.

For your information we are transmitting you herewith copy of an opinion of this Department heretofore written to Senator D. L. Hales, on the general subject of the right to amend Section 44a, Article IV of the Constitution.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General.

GL:LC

Inclosure