

WV
DRAINAGE DISTRICTS:

SB 34 Laws 33
Laws of Missouri, 1933, page 419, provides for the deduction of the unpaid principal benefits, which are not delinquent, from the land as valued with the improvements, in arriving at valuation for assessment; amount of unpaid benefits shall be ascertained on each tract according to the records of the distri .

October 14, 1933.

Mr. Walter L. DeLisle,
Portageville, Missouri.

Dear Sir:

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We are acknowledging receipt of your letter in which you inquire as follows:

"As chief deputy of Mr. John Moylan, Assessor, it is my duty to run the Real Estate and Personal Tax books.

A new law just enacted in the past year concerning Taxation and Revenue relating to valuation of Land and other property in drainage and levee districts, which is an act to prevent double taxation is found in Book page 419. I am writing you in regards to this law as it seems to be a puzzle to the parties who should furnish me with information.

In New Madrid County we have twenty-five or more different drainage districts and as many as five different districts are assessed on a tract of 160 acres of land. I have to deal with two levee districts, the Little River Drainage District and also the various county Drainage Districts. Each Drainage district has a different assessed amount of valuation per acre on even a forty acre tract and, therefore, it means a lot of extra work for the Assessor.

I had a thought that the percentage of unpaid bonds for each drainage District would work, but I realize or believe that the law reads differently. I desire some information from you, a letter explaining in detail just how to arrive at an easy way to figure the unpaid benefits.

I have to seek information from different ones of the drainage districts and I desire to be able to let them know exactly what I want so I will get the correct information the percentage basis we work on."

Section 1, Laws of Missouri, 1933, page 419, provides as follows:

"That in determining the assessed valuation of lands

and other property for general taxable purposes on which benefit assessments have been levied and/or assessed and which are now or hereafter may become liens thereon, by authority of drainage or levee districts, now organized or that may be hereafter organized under the laws of this state for reclamation and/or protection purposes, the county assessors and township assessors in counties that have now adopted or hereafter may adopt township organization, state tax commission, the state and county boards of equalization and appeals, shall ascertain and determine the amount and/or amounts of the portion of existing benefits assessed and/or levied under and by authority of such drainage or levee districts, and for which portion of assessed benefits no levy and/or assessment for principal has been paid, exclusive of delinquent levies and/or assessments, and take into consideration the amount thereof in determining the value of such lands and other property for assessment for taxation for general purposes, and the difference, if any, between the value of such lands and other property, taking into consideration the drainage and/or levee improvements and the amount of the portion of then existing benefits assessed and/or levied under and by authority of such drainage or levee districts, and for which portion of assessed benefits no levy and/or assessment for principal has been paid, exclusive of delinquent levies and/or assessments, shall be and become the assessed valuation upon which such lands and other property shall be taxable for all general purposes, so long as such lands and other property are charged with and subject to such special assessments for principal on assessed benefits for reclamation and/or protection purposes; and the action of the state board of equalization, or any agency to which said authority may be hereafter delegated, thus equalizing said assessed valuation of such lands and other property for taxation for general purposes shall be certified by the state auditor to the several county clerks in this state in counties in which such reclaimed or protected lands and other property are situated, and such assessed valuation of such lands and other property as in this manner equalized, shall be and become the basis upon which same shall be taxable for general purposes. And it shall be the duty of the county and township assessors and the county board of equalization and appeals, or any agency to which said authority may be hereafter delegated, in assessing, equalizing and/or adjusting the value of such lands and other property to conform to the provisions of this act; provided, however, the value of no land or other property shall be equalized for assessment for general taxable purposes at a less sum than the value of such land or other property without taking into consideration the drainage and/or levee improvement."

You inquire how to figure the unpaid benefits. Under the foregoing section the assessor shall first ascertain the amount of the then existing benefits assessed against a tract of land by

authority of such drainage district for which portion of assessed benefits no levy for principal has been paid, exclusive of delinquent l-i-ies, and shall take into consideration the amount of the unpaid principal benefits in determining the value of such land and the difference, if any, between the value of such lands taking into consideration the drainage improvements and the amount of the then existing benefits assessed for which portion of assessed benefits no principal has been paid. Or, to use language more simple than that contained in the statute, the assessor shall value the land, taking into consideration the enhancement thereof made by the improvements of the district. From this figure he shall deduct the amount of unpaid principal benefits which have been assessed but have not been paid and are not delinquent, and the difference between the two shall represent the assessed valuation. As an example; assume that the land as it now stands plus the improvements resulting from the drainage district is valued at \$50.00 per acre. Assume that there is an unpaid assessment benefit to the amount of \$10.00 per acre against the land, then the land shall be assessed for taxation for general purposes in the sum of \$40.00 per acre.

The statute expressly provides that the delinquent or past due assessments for a principal benefit shall not be considered in arriving at the assessment for taxation. It is only that portion of the unpaid principal which is not delinquent or past due that may be deducted in arriving at the value for assessment. The purpose of the Act was to avoid double taxation. At the time the original benefits were assessed, presumably the land was increased by that value, but the unpaid benefits are paid over a period of years and from the entire benefits assessed originally, the taxpayer is entitled to deduct that portion of the benefits originally assessed, which are now a lien against his land and for which he still owes. The delinquent and past due assessments should have been paid when they were due, and the Legislature has provided that they may not be taken into consideration or taken advantage of in order to reduce the assessed valuation.

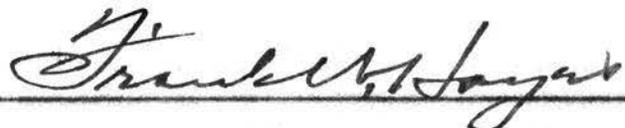
You inquire how would be an easy way to figure these benefits. According to the way we understand the organization of drainage districts and the terms of the above section of the statute, there is only one just and fair way in figuring the amount of the unpaid principal benefits. At the time the district was formed there was assessed against each tract of land a principal benefit according to how each tract was benefitted. The various tracts of land contained in the district were not necessarily benefitted to the same extent nor were the principal benefits against each tract assessed in the same amount. The principal benefit assessment was pro-rated by the officers of the district over a period of years, and an amount was levied upon each tract each year in the form of taxes, to eventually discharge and pay the principal benefit. The tax levied each year might also include interest and other charges, but the amount collected from each tract of land which went to pay the principal benefit should be easily ascertained from the records of the district. The unpaid

principal benefit that remains assessed against each tract of land should be shown by the books of the district and that amount is the amount to be deducted in arriving at the assessed valuation. Unpaid delinquent principal benefits shall not be taken into consideration in making this computation. Where a tract of land is located within the limits of more than one district, then the same process would have to be gone through for each district. The assessor should ascertain the total amount of principal benefits from the districts in which the land lies, and the total amount of unpaid assessed benefits should be deducted from the land as valued with the improvements thereon to arrive at the proper valuation for assessment.

You suggest that a percentage of the unpaid bonds might be the easiest way by which to figure these benefits. We believe that such a method would not be proper. All the lands in the district were not assessed at the same figure for principal benefits. One acre of land might have been assessed at \$10.00 and another acre at \$3.00. While it is true that the amount of unpaid bonds might and should represent the total amount of unpaid benefits, yet the statute forbids taking into consideration the delinquent unpaid benefits. Unless the bonds, as they became due, were retired from a sinking fund or in some manner the unpaid delinquent assessment benefits would be reflected in the present outstanding bond issue.

We are of the opinion, therefore, that under the above section, it will be necessary for the clerks of the district to ascertain from the records of the district the amount of unpaid principal benefits which is now assessed against each tract of land. In arriving at the amount to be deducted the delinquent assessments shall not be considered. We do not have before us sufficient information or figures from which we can figure a percentage for you to work with. We believe that the statute requires the benefits to be figured in the way we have outlined above, although it may not be as easy a method as one that might be worked out by you in going over the records of the district, yet we believe that the unpaid benefits of each tract of land must be separately ascertained without considering such delinquent assessments.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.