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TAXATION: Duties of County Clerk under Senate Bill 34, page 419,
Laws of Missouri, 1933.

May 10, 1934.

5-14



Hon. John E. Powell
Prosecuting Attorney
Mercer County
Princeton, Missouri

Dear Mr. Powell:

Acknowledgment is herewith made of your request for
an opinion of this office reading as follows:

"Referring to Section 1, page 419 of the
Laws of 1933, I desire to ask some information.

I note this law was passed March 18, 1933,
and did not take effect until after June
1, 1933, and our County Clerk seems to have
a different opinion as to what shall be done
as to what is being done over in Gentry
County and I have advised the County Clerk
here that I would prefer to have an analysis
of Sections one and two, above referred to,
especially do I have reference to Section 2,
in other words our County Clerk, as well as
myself, in advising him, is slow to charge
off benefits under Section 2 and report the
same for fear that he will make deductions
which ought not to be made."

Senate Bill 34 referred to above places certain duties
upon the County Assessors and the County and State Boards of
Equalization and Appeals respecting the equalization of land
values for taxation purposes, and places certain duties upon
the County Clerks in obtaining information and supplying the
same to these various agencies so as to expedite the assessment
and equalization of land values. For the purpose of this
opinion I herewith quote certain portions of this act:

"SECTION 1. That in determining the assessed valuation of lands* * *on which benefit assessments have been levied* * *the county assessors* * *state tax commission, the state and county boards of equalization and appeals, shall ascertain and determine the amount* * *of then existing benefits assessed* * *and for which* * *no levy* * *for principal has been paid, exclusive of delinquent levies* * *and take into consideration the amount thereof in determining the value of such lands* * *for assessment for taxation for general purposes, and the difference,* * *between the value of such lands* * *taking into consideration the drainage or levee improvements and amount of the* * *benefits assessed* * *and for which* * *no levy* * *for principal has been paid, exclusive of delinquent levies* * *shall be and become the assessed valuation* * *which such lands* * *shall be taxable for all general purposes* * *.

* * *And it shall be the duty of the county assessors and the county board of equalization and appeals* * *in assessing equalizing and adjusting the value of such lands* * *to conform to the provisions of this act.

SECTION 2. It is hereby made the duty of the clerks of the county courts to ascertain* * *the aggregate amount* * *of the portion of* * *benefits assessed* * *against lands* * *within* * *drainage or levee districts* * *in their respective counties and for which* * *no levy* * *for principal has been paid, exclusive of delinquent levies* * *and shall also certify the aggregate amount* * *of then existing benefits* * *for which* * *no levy* * *for principal has been paid, exclusive of delinquent levies* * *, together with any other information that may be necessary or required in order that the provisions of this act may become effective and the equalizing of the valuation of lands* * *within drainage or levee districts* * *for taxation for general purposes may be expedited,

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and to* * *make out and forward* * *the information above referred to, to the state auditor to be laid before the state board of equalization. It is hereby made the * * * * duty of the* * *clerks* * *to retain a copy of the information, matters and things* * * to be laid before and for the use of the county boards of equalization and appeals."

A careful examination of the foregoing act reveals that there is no duty placed upon the County Clerk to charge off any benefits allowable under this Law. The only duty placed upon the County Clerk is to obtain the necessary information as to the amount of unpaid benefits levied and assessed against land in drainage and levy districts exclusive of delinquencies, and report these amounts to the County Boards of Equalization and Appeals and the State Board of Equalization. It is then the duty of these bodies acting upon this information and upon any other information that may come to their knowledge to give full force and effect to this law equalizing the valuations of lands in drainage and levy districts in accordance with the provisions of this law.

It is therefore the opinion of this office that your County Clerk is merely the agency through which this information is compiled and that it is the duty of the Assessor and the State and County Boards of Equalization and Appeals to make any deductions necessary to equalize the valuation of lands in drainage and levy districts.

Respectfully submitted,

HARRY GL WALTNER, Jr.
Assistant Attorney General

APPROVED:

ROY McKITTRICK,
Attorney General.

HGW:MM