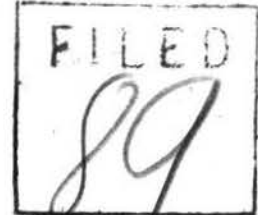


MUNICIPALITIES:
BOND ISSUE: VALUATION:
HOW DETERMINED:

Municipalities in determining the amount for which they may vote bonds shall use the assessment next before the last completed assessment as a basis of such bond issue.

July 29, 1938

Mr. Morris Thompson, Secretary
Chamber of Commerce,
Trenton, Missouri.



Dear Sir:

This is in reply to yours of July 23rd requesting an official opinion from this department based upon the following letter:

"The city of Trenton is considering the advisability of some new construction which will necessitate a bond issue. In connection with this, we would like to know the maximum bonded indebtedness allowed Trenton under the law.

If you have these figures available, we will be grateful for the information. If not, we will appreciate advice as to where we can secure the information."

Section 12 of article X of the Constitution relating to municipal indebtednesses provides in part as follows:

"No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the

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consent of two-thirds of the voters thereof voting on such proposition, at an election to be held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for State and county purposes, previous to the incurring of such indebtedness,* * * * *

As to which assessment the foregoing section of the Constitution referred to the court in the case of State ex rel. v. Gordon, 251 Mo. 303, held as follows:

"The assessments to be considered in determining whether a proposed indebtedness exceeds the constitutional limitation, in view of the words that such indebtedness cannot exceed ten per cent of 'the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for state and county purposes,' are the two successive, antecedent, completed assessments made by the State Board of Equalization previous to incurring the indebtedness; that is, previous to the time of the popular election to increase the indebtedness. If it was proposed to hold an election in August, 1912, to increase the city indebtedness, and the assessment as of June 1, 1911, had not then been completed by the State Board of Equalization, the taking of the assessment as of June 1, 1910, as the basis, would not be in compliance with the Constitution, for its language means that it must be 'the assessment next before' that completed assessment. The assessment that the Constitution con-

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templates was the one as of June 1, 1909, and if the taxable value of the property within the city as shown by that assessment, was \$485,466, a bond issue of \$53,000, voted in August, 1912, was in excess of the constitutional limit, and the State Auditor properly refused to register them."

This office does not have any information as to what the amount of the assessments of your property is but this information can be obtained from the records of your city clerk, county clerk or city collector.

From the holding in the Gordon case, supra, if the assessment for June, 1937, is not yet completed, the last completed assessment would be the assessment for 1936, and as the foregoing section of the Constitution provides that the amount of the bonds which may be issued shall be based upon the assessment next before the last assessment for county purposes, the assessment upon which you should base your valuation for the purpose of determining the value of the property and the amount for which the city may vote bonds is the assessment for the year 1935.

Section 9862, R. S. Mo. 1929 provides as follows:

"The board shall meet at the capitol in the City of Jefferson on the last Wednesday in February, 1894, and every year thereafter, the majority of whom shall constitute a quorum, and the members thereof shall each take an oath or affirmation that he will, to the best of his knowledge and ability, equalize the valuation of real and personal property among the several counties in the state, according to the rules prescribed by this chapter for equalizing and valuing real property; and the secretary of the board shall keep an accurate account of

all their proceedings and orders, and file the same, together with all their papers, in the office of the state auditor."

If the State Board has now performed all of its duties required by the foregoing section in regard to the assessment made as of June 1, 1937, then by the rules hereinbefore set out the assessment as of June 1, 1936, would be the one the city would use in determining what amount of bonds it could vote.

If the construction which you are contemplating erecting is one that is permitted by Section 12a, article X of the Constitution, then your voters by a vote may become indebted in a larger amount than that specified by Section 12 of article X of the Constitution which amount shall not exceed ten per cent of the value of the taxable property. The valuation under this section is to be ascertained and based upon the same assessment as is provided for by Section 12 of article X of the Constitution of Missouri.

Section 12a, article X of the Constitution of Missouri provides in part as follows:

"Any city in this State, containing not more than thirty thousand (30,000) inhabitants, may, with the assent of two-thirds ($2/3$) of the voters thereof voting at an election held for that purpose, be allowed to become indebted in a larger amount than specified in section 12 of article 10 of the Constitution of this State, not exceeding an additional ten (10) per centum on the value of the taxable property therein, for the purpose of purchasing or constructing waterworks, ice plants, electric or other light plants, to be owned exclusively by the city so purchasing or constructing the same: * * * * *

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CONCLUSION

From the foregoing it is the opinion of this department that the city may, by a proper vote, become indebted in an amount not exceeding five per cent on the value of the taxable property therein less any indebtedness which may have been authorized by section 12 of article X of the Constitution, which valuation shall be ascertained by the assessment next before the last assessment for state and county purposes previous to the incurring of such indebtedness; that if the State Board of Equalization has completed its duties pertaining to the 1937 assessment, then the valuation as fixed by the 1936 assessment is the one upon which you should base your bond issue, and if said board has not completed its duties pertaining to the 1937 assessment, then the valuation for the 1935 assessment is the one the city should use as a basis of its bond issue.

We are also of the opinion that if the project which the city contemplates construction is one that is authorized by section 12a of article X of the Constitution, then an amount in addition to the then existing indebtedness, if any, which may have been authorized by said section 12a, but not exceeding ten per cent of the value of the taxable property therein may be voted by the people. Such valuation to be determined in the same manner as is hereinbefore set out relating to the bond issue not exceeding five per cent of the value of the taxable property.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. W. BUFFINGTON
(Acting) Attorney General

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