

GENERAL ROAD DISTRICTS--
TAXATION

How road taxes may be levied
in road districts other than
special road districts under
township organization.

May 1, 1945



Honorable R. Kip Briney
Prosecuting Attorney
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Bloomfield, Missouri

Dear Mr. Briney:

Your letter of April 20, addressed to "Office of Attorney-General, State of Missouri, Jefferson City, Missouri," has been received and has been assigned to the writer to prepare the opinion requested in your communication.

Your letter states:

"Stoddard County is operating under township organization. Under the first sentence of Section 12, Article 10, of the new Constitution, the township board is clearly authorized to make a levy of thirty-five cents on each one hundred dollar assessed valuation for road and bridge purposes, but this thirty-five cents will not be sufficient for road and bridge purposes. The second sentence of Paragraph 1 Section 12 makes provision for an additional levy for road and bridge purposes, and in part says as follows:

"In addition to the above levy for road and bridge purposes it shall be the duty of the County Court, when so authorized by majority of the qualified electors of any road district, general or special, voting thereon at an election held for such purposes to make an additional levy of not to exceed thirty-five cents on the one hundred dollar valuation * * *."

"It is the desire of the Township Board of Castor Township, Stoddard County, Missouri, to hold an election to test the sense of the voters upon the proposition of voting an additional thirty-five cents over and above the thirty-five cents authorized in the first sentence of Section 12. The question is: Is Castor Township a road district, general or special, within the meaning of this section? There is no contention that Castor Township is a 'special' road district, but it conclusively seems to me that Castor Township is a 'general' road district, as townships in counties having township organization and a county not having township organization must be a 'general' road district, otherwise this provision of the Constitution for 'general' road districts makes no sense.

"I have found no definition of a 'general' road district either in the Missouri Digest or Missouri Revised Statutes Annotated."

Your difficulty seems to be the question of determining the meaning of the word "general" as used in Section 12, Article 10 of the new Constitution of Missouri, as applied to road districts in counties having adopted township organization, as you express it, and whether Castor Township constitutes a road district.

The question of whether Castor Township, Stoddard County, Missouri, has within it only one road district or more than one road district is a question of fact.

Section 8814, Article 17, Chapter 46, R.S. Mo. 1939, under the Title of Township Organization -- Road Districts and Overseers, with respect to the formation of road districts is as follows:

"The township board of directors shall form the township into one or more road districts.* * *"

Whether or not said Castor Township, Stoddard County, Missouri, has only one road district or more than one road district, would depend upon the record made by the board of directors of said township in that behalf. If the township

board formed the township into only one road district, the boundaries of said road district would be co-existent and co-extensive within the boundaries of the township itself. If, however, the township board may have formed more than one road district within the boundaries of the township, it would then be the duty of the County Court in such counties, when so authorized by a majority of the qualified electors of any of such road districts, one or more, as the case might be, general or special, voting thereon at an election held for such purposes to make an additional levy of not to exceed 35¢ on the \$100 assessed valuation on all taxable real and tangible personal property within such district, to be collected in the same manner as State and County taxes, and placed to the credit of the road district authorizing such levy, if and when such election may be called and held in the manner provided by law. It would be possible for one or more general or special road districts to have been formed, or to be formed, in said township. If no special road districts were formed by the township board, and only one road district remained, comprising the full boundaries of the township, it would be quite understandable that it would be referred to as a "general" road district, or if more than one road district were formed in said township, none of which were special road districts, they too could reasonably and intelligibly bear the name of "general" road districts.

We do not think the word "general" is of any special significance in construing the terms of Section 12, Article 10 of the new Constitution.

Webster's International Dictionary, page 1018, defines the word "general" as :

"* * * Pertaining in common to all. * * *
Opposed to particular or special. * * *"

The words "general" or "special" might very well be abridged or treated as surplusage in said Section 12 of said Article 10 of the new Constitution, and still leave the terms of the section quite clear as to what road districts may proceed to vote on an additional levy, wherein it states that "any" road district may so proceed to make such additional levy.

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The matter would appear to be determined by the fact whether Castor Township is divided into one or more road districts. If only one road district is created, then Castor Township itself would comprise, so far as territorial lines are concerned, and in fact one road district. If, however, more than one road district has been created in said Castor Township, each road district would be an entity to itself, and could proceed, when authorized by law, to vote on such additional levy for itself at an election held in such township.

Section 23, Article 10 of the former Constitution of Missouri, which was in effect until March 30, 1945, used the same language with respect to road districts, by especially referring to Section 22 of Article 10 of the old Constitution which included township boards of directors in counties having adopted township organization, as is used in said Section 12, Article 10 of the new Constitution, by saying that: "the qualified voters of any road district, general or special", could vote such additional levy. So we believe that the word "general" means any road district or any number of road districts, that are not formed into special road districts.

Your immediate difficulty, however, lies in the fact that at the present time, no legislation has been passed providing for the manner of calling and holding such an election.

Referring again to the terms of Section 12, Article 10 of the new Constitution which states that: "such election to be called and held in the manner provided by law," it is apparent that that part of said Section 12, respecting the voting of an additional tax of 35¢, in addition to the 35¢ authorized to be levied by the board of directors in counties under township organization, is dependent upon legislation to supplement it in order that it can be carried into effect. No legislation has been passed providing for the manner of calling and holding such an election, and therefore, there would seem to be no way that the additional levy referred to in Section 12 of Article 10, supra, can now be made. If, and when, provision is made by the Legislature for the calling and holding of an election in any road district in counties having adopted township organization for such purpose, said additional levy can be made by the County Court.

CONCLUSION

It is, therefore, the opinion of this Department that:

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1) The word "general" as used in Section 12, Article 10 of the new Constitution, describing road districts in townships in counties having adopted township organization, means any road district other than special road districts in any township in such county, and,

2) That if the board of directors of a township under township organization has formed only one road district therein the boundaries of the township itself would constitute the boundaries of a road district, and

3) That the County Court of any such county, when authorized by a majority of the qualified voters of any road district within a township in any such county may make an additional levy of not to exceed 35¢ on the \$100 valuation on all property within said road district, which said tax shall be credited to the road district authorizing the levy; but this additional levy could not now be made, because there is no legislation authorizing the calling and holding of a special election for such purposes in any such road district.

Respectfully submitted,

GEORGE W. CROWLEY
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
Attorney-General

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