

TAXATION: : Levy may be made by County Court  
ROAD DISTRICT: : up to fifty cents on one hundred  
SPECIAL BENEFIT DISTRICTS: dollars valuation when authorized  
: by a majority of the qualified  
: voters of the road district, under  
: the provision of Sec. 23 of Art. X  
: of the Constitution.

January 23, 1945



Honorable Wayne V. Slankard  
Prosecuting Attorney  
Newton County  
Neosho, Missouri

Dear Sir:

This will acknowledge receipt of your letter of January 17, 1945, making request for an opinion of this department as follows:

"In view of the decision in State vs. Southwestern Bell Telephone Company, 179 S.W. (2d) 77, holding that 'that part of Sec. 8716 RS 1939 authorizing the commissioners to make an unlimited levy as therein provided for general purposes in the district as therein specified, is in conflict with Sec. 23, Article 10 of the Constitution and is void.' I would like your opinion as to what procedure should be followed by a road district in levying taxes for the purposes set forth in that section."

The case of State ex rel. vs. Southwestern Bell Telephone Company, 179 S.W. (2d) 77, decided by the Supreme Court on April 3, 1944, held that the portion of Section 8716, R.S. Mo. 1939, authorizing commissioners to make a levy for general purposes in the district was in conflict with Section 23, Article X of the Constitution and was void. This Supreme Court decision specifically mentions an opinion of the Office of the Attorney General of April 7, 1942, addressed to the County Clerk of Atchison County, and a copy of that opinion is herewith enclosed to you.

Honorable Wayne V. Slinkard -2- January 23, 1945

As stated in that opinion, taxes for general purposes in road district may only be levied in conformity with the provisions of Section 23, Article X of the Constitution.

CONCLUSION.

From the foregoing, it is the opinion of this department that the procedure necessary to be followed by special benefit road district in the levying of taxes for general purposes must be in compliance with Section 23, Article X of the Constitution, which provides that the County Court shall make the levy when authorized by a majority of the qualified voters of the road district, voting thereon at an election held for such purpose. The tax levy must not exceed fifty cents on the one hundred dollars valuation on all property within such district. The County Court must submit the proposition to a vote within twenty days' time after the filing of petition signed by not less than ten qualified voters and taxpayers residing within such road district.

Respectfully submitted,

R. WILSON BARROW  
Assistant Attorney General

APPROVED:

HARRY H. KAY  
(Acting) Attorney General

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