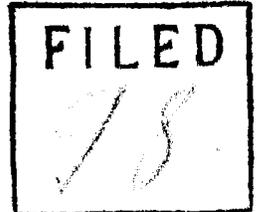


CONSTITUTIONAL LAW:  
COUNTY COURT: ROADS  
AND BRIDGES: TAXES:

The County Court, in its discretion, may levy a county road and bridge tax under the provision of House Bill No. 784 and, when a petition has been circulated and a road district within the county has voted an additional tax, the county court may levy said additional tax in the district or districts in which voted.

August 9, 1946



Mr. F. P. Wingate  
County Clerk  
Paris, Missouri

Dear Mr. Wingate:

This will acknowledge receipt of your letter of recent date requesting an opinion of this department upon the following question: To what extent does the county court have the authority to levy taxes for road purposes?

Section 12(a), Article X of the Constitution reads:

"Sec. 12(a). Additional Tax Rates for County Roads and Bridges--Road Districts.-- In addition to the rates authorized in section 11 for county purposes, the county court in the several counties not under township organization, the township board of directors in the counties under township organization, and the proper administrative body in counties adopting an alternative form of government, may levy an additional tax, not exceeding thirty-five cents on each hundred dollars assessed valuation, all of such tax to be collected and turned in to the county treasury to be used for road and bridge purposes. In addition to the above levy for road and bridge purposes, it shall be the duty of the county court, when so authorized by a majority of the qualified electors of any road district, general or special, voting thereon at an election held for such purpose, to make an additional levy of not to exceed thirty-five cents on the hundred dollars 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, such election to be called and held in the manner provided by law."

House Bill No. 784, passed by the 63rd General Assembly and approved by the Governor on April 10, 1946, repealed the sections of the statute relating to taxes for road and bridge purposes in the counties of the state. In lieu of these taxes House Bill No. 784 enacted sections complying with Section 12(a) of Article X of the new Constitution.

Section 8527 of House Bill No. 784 reads as follows:

"In addition to other levies authorized by law, the county court in counties not adopting an alternative form of government and the proper administrative body in counties adopting an alternative form of government, in their discretion may levy an additional tax, not exceeding thirty-five cents on each one hundred dollars assessed valuation, all of such tax to be collected and turned into the county treasury, where it shall be known and designated as 'The Special Road and Bridge Fund' to be used for road and bridge purposes and for no other purpose whatever; provided however, that all that part or portion of said tax which shall arise from and be collected and paid upon any property lying and being within any special road district shall be paid into the county treasury and four-fifth of such part or portion of said tax so arising from and collected and paid upon any property lying and being within any such special road district shall be placed to the credit of such special road district from which it arose and shall be paid out to such special road district upon warrants of the county court, in favor of the commissioners or treasurer of the district as the case may be; Provided further, that the part of said special road and bridge tax arising from and paid upon property not situated in any special road district and the one-fifth part retained in the county treasury may, in the discretion of the county court, be used in improving or repairing any street in any incorporated city or village in the county, if said street shall form a part of a continuous highway of said county

leading through such city or village."

The additional levy which may be made in the road districts of any county under the provisions of Section 12(a) of Article X of the Constitution is provided for in Section 8529 of House Bill 784 which reads as follows:

"Whenever ten or more qualified voters and taxpayers residing in any general or special road district in any county in this state shall petition the county court of the county in which such district is located, asking that such court call an election in such district for the purpose of voting for or against the levy of the tax provided for in the second sentence of the first paragraph of Section 12 of Article X of the Constitution of Missouri, it shall be the duty of the county court, upon the filing of such petition, to call such election forthwith to be held within 20 days from the date of filing such petition. Such call shall be made by an order entered of record setting forth the date and place of holding such election, the manner of voting and the rate of tax the court will levy, which rate shall not exceed thirty-five cents on the hundred dollars assessed valuation on all taxable real and tangible personal property in the district. A copy of such order shall be published in two successive issues of any newspaper published in such district, if any, and if no newspaper is published in such district, three certified copies of such order shall be posted in public places in such district. The first publication in said newspaper and the posting of such notice shall be not less than ten days before the date of such election. Such court shall also select one or more judges and clerks for such election to receive the ballots and record the names of the voters.

The above constitutional and statutory provisions show that the county court, in its discretion, may levy a tax for road and bridge purposes, in addition to the other taxes which it may lawfully levy for the carrying on of the functions of the county. This road and bridge tax is not to exceed thirty-five cents for each one hundred dollars assessed valuation on property in the county. In addition to this general levy, which is made by the county court, another levy may be made in any general or special road district in the county. This levy must not exceed thirty-five cents on the one hundred dollars assessed valuation on all taxable real and tangible personal property in said road district. The county court may not levy this additional tax until the provisions of Sections 8529 and 8530 of House Bill No. 784 have been complied with. This section requires that a petition must be circulated in the road district

asking that the county court call an election in such district for the purpose of voting for or against the additional levy which is restricted to the particular road district. If the election is properly held and the proposition is approved the county court may then make the levy in said district.

In summary, the county court is authorized to levy a road and bridge tax under Section 8527 of House Bill No. 784 of the Constitution of Missouri up to thirty-five cents on each one hundred dollars assessed valuation of property in the county. In addition to this, the county court may levy a road and bridge tax up to thirty-five cents on the one hundred dollars assessed valuation in any or all general or special road districts if the district or districts in which the additional levy is made has voted such additional levy and the proceedings have complied with Sections 8529, 8530 and 8531 of House Bill No. 784.

We herewith enclose a copy of House Bill No. 784 for your convenience.

CONCLUSION

We are, therefore, of the opinion that the county court may, in its discretion, levy a road and bridge tax up to but not exceeding thirty-five cents on the one hundred dollars assessed valuation of property in the county and that an additional thirty-five cent levy on each one hundred dollars assessed valuation may be made in the general or special road district or districts which petition for, and by their vote approve of the same, under the provisions of House Bill No. 784 as passed by the 63rd General Assembly and approved by the Governor on April 10, 1946.

Respectfully submitted,

APPROVED:

J. E. TAYLOR  
Attorney General

SMITH N. CROWE, JR.  
Assistant Attorney General

SNC:mw  
enc.