

ELECTIONS:  
COUNTY COURTS:  
ROADS AND BRIDGES:

County Court of Andrew County may call a special election to increase rate of levy for not to exceed four year term. "Respective purposes" authorize such election to be held for increasing tax levy for bridge purposes. Tax levy, under Sections 8527 and 8529, Laws of Mo. 1945, authorizes increase for only one year. Such election provided for in Sec. 8529, Laws of Mo. 1945, may be held in place or places July 24, 1947 in county designated by county court.

Honorable J. W. Roberts  
Assistant Prosecuting Attorney  
Andrew County  
Savannah, Missouri

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Dear Sir:

We are in receipt of your letter of recent date requesting an official opinion of this department, and the questions that you have asked in your letter read as follows:

"1st: Is the County Court of Andrew County authorized under Section 11 of Article 10 of the Constitution of Missouri to call a special election to test the sense of the voters on a proposition to increase the annual rate of taxation on all taxable real estate and tangible personal property in the amount of 35 cents on the \$100.00 assessed valuation for a period of three years, 1947, 1948 and 1949, and upon a two-thirds vote of the qualified electors to be empowered to make such increased levee?

"2nd: Does the term 'respective purposes' found in the second and third lines of the last paragraph of said Section 11 on page 54, Laws of Missouri 1945 include the 'Special Road and Bridge Fund' mentioned in Section 8528, Laws of Missouri 1945, page 1480 and in Section 12, Article 10 of the Constitution?

"3rd: Does the second sentence in Section 12 of the Constitution in conjunction with

Section 8527 and 8529, Laws of Missouri 1945, page 1479-1480 authorize an increase of levy for more than one year?

"4th: Does the special election provided for in said Section 8529 have to be held at one place in the County or may the election be held in the usual voting places in the various voting precincts of the County?"

Under the provisions of Section 11(c), Article X of the Constitution of Missouri 1945, and Section 11046 of House Bill No. 77 of the 64th General Assembly, signed May 19, 1947 by the Governor, which bill contained an emergency clause and repealed and reenacted Section 11046, Laws of Missouri 1945, page 1781, but left out that part of Section 11046, Laws of Missouri 1945, which provided "that no county court shall order a rate of tax levy that will produce mathematically more than ten per cent in excess of the taxes levied for the previous year," the County Court of Andrew County is authorized to call a special election for an increase of the annual rate of taxation on all taxable real estate and tangible personal property in an unlimited amount for a period of not to exceed four years, and at such election a two-thirds vote of those voting thereon is required to carry such election.

Your second question inquires as to whether or not the term "respective purposes," found in Section 11(c), Article X of the Constitution, includes the "Special Road and Bridge Fund" mentioned in Section 8528, Laws of Missouri 1945, page 1480, and Section 12 of Article X of the Constitution.

In answer to this question we are enclosing a copy of an official opinion of this department rendered under date of July 16, 1947, to the Honorable Emmett L. Bartram, Prosecuting Attorney of Wodaway County, which opinion was written with reference to a county under township organization. However, the conclusion reached therein is equally applicable to a county not under township organization. It will be noted that Section 8534 (1939), providing for the county court to determine what bridges shall be built and maintained by the county and by the road district and that the road district shall not be compelled to build bridges costing fifty dollars or more, and Section 8536 (1939),

providing that road districts shall not be required to repair bridges built by the county and attached to the road district for repair when such repair shall cost more than fifty dollars, and Section 8540 (1939), providing for payment of part of the cost of bridges in the adjoining county, are statutes placing the duties regarding the construction of bridges on the county, therefore a tax for such purposes is a tax for a county purpose. Section 8527, Laws of Missouri 1945, page 1479, providing for the payment of taxes arising from property not in a special road district and 20% of the taxes arising from property in a special road district to the county and to be spent by the county court, provides for an additional road and bridge tax and does not prohibit the levy of a tax for bridge purposes, as a part of the general levy for county purposes.

You will note that the conclusion reached in the enclosed opinion to Mr. Bartram holds that the term "county purposes," as used in Section 11(c), Article X, of the Constitution, and Section 11046 of House Bill No. 77 of the 64th General Assembly, does not include the "Special Road and Bridge Fund" mentioned in your second question, but that the term "respective purposes" does include the bridge taxes that may be levied by a county court under its power to levy for "county purposes."

In answer to your third question, we are enclosing copies of official opinions rendered by this department to the Honorable Roy G. Miller, Prosecuting Attorney of Webster County, under date of March 21, 1947, and the Honorable Herbert S. Brown, Prosecuting Attorney of Grundy County, under date of March 24, 1947. These two opinions hold that the special road and bridge tax authorized by the second sentence of Section 12 of Article X of the Constitution of Missouri, and Section 8529, Laws of Missouri 1945, page 1480, authorizes an increase of a tax levy for one year only.

In answer to your fourth question, Section 652, R.S. No. 1939, provides as follows:

"When any subject-matter, party or person is described or referred to by words importing the singular number or the masculine gender, several matters and persons, and females as well as males, and bodies

corporate as well as individuals, shall be deemed to be included."

(Underscoring ours.)

Therefore, under the provisions of Section 652, supra, the county court may designate the place or places, which may be the usual voting places in the various voting precincts of the county, when an election is held under the provisions of Section 8529, Laws of Missouri 1945, page 1480.

Conclusion.

It is the opinion of this department that (1) the County Court of Andrew County is authorized, under Section 11, Article X of the Constitution of Missouri, and Section 11046 of House Bill No. 77 of the 64th General Assembly, to call a special election to vote on a proposition to increase the annual rate of taxation in the county for a period of not to exceed four years; that (2) the term "respective purposes," found in Section 11(c), Article X of the Constitution of Missouri, authorizes an election to vote an increase in taxation in Andrew County for road and bridge purposes to an unlimited amount for a period not to exceed four years; that (3) the second sentence of Section 12, Article X of the Constitution of Missouri, and Section 8529, Laws of Missouri 1945, page 1480, authorize a levy of a tax for one year only; and that (4) the special election provided for in Section 8529, Laws of Missouri 1945, page 1480, may be held at a place or places designated by the county court, and the county court may designate the usual voting places in the various voting precincts of the county.

Respectfully submitted,

C. B. BURNS, JR.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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