

TAXATION:
COUNTY COURTS:
ELECTIONS:
ROADS AND BRIDGES:

When tax is voted by the people under provisions of Sections 8529, 8530 and 8531, Laws of Missouri, 1945, page 1478, county court has no discretion as to whether or not levy shall be made, and no election may be held to nullify such tax.

June 27, 1949



Honorable W. V. Mayse
Prosecuting Attorney
Harrison County
Bethany, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department reading as follows:

"I would like an opinion from your office on the following situation:

"A township of our county voted a special levy and it now develops that they cannot use the levy for this reason. They have to issue protested warrants, and in view of the pending legislature to abolish township organizations, the banks nor any other investors in our county will buy township protested warrants.

"Apparently the people in the township now desire that this special levy not be run on the books because they cannot use them, and they have requested the county court not to run this levy on the books. My questions are:

"(1) Can the court just simply fail to run this levy on the books?

"(2) Can the people in the township hold another special election to do away with this levy?"

In a subsequent letter you state that the levy about which you write was voted by the people under the provisions of Section 8529, 8530 and 8531, Laws of Missouri, 1945, page 1478. Such sections refer to the voting of an additional tax by the qualified voters of a "general road district." We assume, therefore, that the township about which you speak is

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in reality a "general road district" and had authority to vote such additional taxes. We are enclosing an official opinion of this department rendered under date of March 24, 1947, to Honorable Herbert S. Brown, Prosecuting Attorney of Grundy County, holding that the tax authorized by Sections 8529 to 8531, inclusive, Laws of Missouri, 1945, page 1478, must be voted each year in order to be levied.

The fact that some of the people in the township now desire that the special levy not be run can in no way affect any duty that the county court must have with regard to any taxes. It is the duty of the county court to comply with the law and to perform all duties placed upon it. The fact that an authorized election was held imposing the tax makes it the duty of the county court to comply with the law in all respects insofar as this levy is concerned. It is the universally accepted principle that no election can be held unless provided for by law. State ex rel. vs. Ellison, 271 Mo. 123. We find no authority for the calling of an election to do away with the levy which was voted in the general road district. Therefore, we are of the opinion that no such election can be held.

CONCLUSION

It is the opinion of this department that it is the duty of the county court to comply fully with the law after a majority of the qualified voters of a general road district have voted a tax levy under the provisions of Sections 8529 to 8531, inclusive, Laws of Missouri, 1945, page 1478. It is further the opinion of this department that no authority exists for holding an election to do away with a levy so voted.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

CBB:VLM