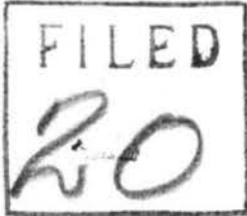


SCHOOL DISTRICTS: Revised estimate and changed levy may be filed  
TAXATION: if such action is taken prior to any action having  
been taken upon the original estimate and levy.

July 16, 1953



Honorable Robert E. Crist  
Prosecuting Attorney  
Shelby County  
Shelbina, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department reading as follows:

"Please send your opinion regarding the following:

"A school election under Section 165.080, M.R.S., 1949, was held on June 26, 1953, and an additional levy of \$1.25 was voted for building purposes for one year.

"The school district had submitted an 'Annual Estimate of Needs and Tax Rate' to the County Superintendent of Schools, as provided in Section 165.077, R. S. Mo. 1949. The County Superintendent furnished the County Clerk with such estimate as provided in Section 167.040, M.R.S., 1949, prior to said 26th day of June, 1953.

"What procedure should be followed by such school district, County Superintendent and County Clerk to amend the prior estimate and all assessments, tax books and records to conform with such election? Would Section 50.110, M. R. S., 1949, have any bearing on this question? We are pressed for time, and would be most appreciative if we could get this opinion at your earliest convenience."

Honorable Robert E. Crist

Under the provisions of Section 165.077 boards of directors of each school district are required annually on or before the 15th day of May of each year to make an estimate of the anticipated needs and rate of levy required to produce sufficient income to operate the respective schools for the ensuing term. However, in construing this particular section, it has been held by the Supreme Court of Missouri that such an estimate, after having been filed, may be withdrawn and a new estimate and a new proposed tax levy substituted in lieu thereof if such action be taken prior to the original estimate having been acted upon. I direct your attention to the case of Lyons v. School District, 311 Mo. 349, 278 SW 74, 1.c. 78, from which we quote:

"\* \* \* The estimate filed under the provisions of section 11142 may be withdrawn, and revised estimates may be submitted, if done before the first estimates were acted upon, and a valid levy may be made upon such revised estimates. State ex rel. v. Phipps, 148 Mo. 31, 49 S. W. 865."

With this authority in mind, it next becomes pertinent to examine the statutes relating to the extension of tax levies based upon such estimates in order to determine whether or not sufficient time yet remains in which a revised estimate may be filed in the light of the circumstances you have outlined in your letter.

We note that under the provisions of Section 165.083, RSMo 1949, the tax levy is to be extended by the county clerk upon the real and personal property as shown in the "last annual assessment" for state and county purposes. We find that under the provisions of Section 137.290, RSMo 1949, the assessor's books are to be finally corrected not later than the 1st day of September in each calendar year. This will be after action has been taken by the county board of equalization and by the county board of appeals. Under the same statute the county clerk is given until the 31st day of October of each year to extend the taxes upon the valuations so finally fixed and determined by action of the assessor and the county board of equalization. From the foregoing, it seems that ample time yet remains in which procedural steps may be taken to certify a revised estimate to the county superintendent

Honorable Robert E. Crist

of schools as provided by Section 165.077, RSMo 1949, mentioned supra, and by such county superintendent of schools approved and forwarded to the county clerk of such county in accord with the provisions of Section 167.040, RSMo 1949.

In addition, the clerk or secretary of the school board or district should also certify to the clerk of the county court the increased levy in accordance with the provisions of Section 165.080, Mo. RS 1951 Supp, which provides as follows:

"\* \* \* and if the necessary majority of the qualified voters voting thereon, as required by article X, section 11 of the constitution, shall favor the proposed increase for any purpose, the result of such vote, including the rate of taxation so voted in such district for each purpose, and the number of years said rate is to be effective, shall be certified by the clerk or secretary of such board or district to the clerk of the county court of the proper county, who shall, on receipt thereof, proceed to assess and carry out the amount so returned on the tax books on all taxable property, real and personal, of such school district, as shown by the last annual assessment for state and county purposes, including all statements of merchants as provided by law."

#### CONCLUSION.

In the premises, we are of the opinion that at this time the board of directors of the school district mentioned in your letter of inquiry may prepare and certify to the superintendent of schools of Shelby County a revised estimate and new levy. On approval of that officer such revised estimate may thereupon be certified to the County Clerk for his use in extending the new tax rates.

It is our further opinion that the clerk or secretary of such school district or board should make the certifica-

Honorable Robert E. Crist

tion of the increased rate direct to the county clerk as provided by Section 165.080, Mo. RS 1951 Supp.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON  
Attorney General

WFB:sw