

SCHOOLS:
SCHOOL DISTRICTS:
TAXATION:

Where territory of school district in one county extends into another county and assessed valuation of latter county is increased by more than ten per cent after rate of levy has been determined, school board must redetermine rate of levy in accordance with Senate Bill No. 286, 68th General Assembly.



August 29, 1955

Honorable John M. Rice
Prosecuting Attorney
Newton County
Neosho, Missouri

Dear Mr. Rice:

This is in response to your request for opinion dated July 29, 1955, which reads as follows:

"I would like your official opinion upon the following question. A recent bill passed by the 68th General Assembly, which amends Chapter 138 R.S. Mo. 1949 by adding section 138.405, provides that when the assessed valuation of real or personal property within the county has been increased by 10% or more over the prior year's valuation, the body authorized to make levies shall revise and lower the levy to the extent necessary to produce substantially the same amount of taxes as previously estimated to be produced by the original levy.

"The following situation exists here, School District No. 6 of Lawrence County, Missouri, the school being located at Pierce City, Missouri, in Lawrence County, extends into Newton County for a considerable distance. Newton County is included in the order of the State Tax Commission for an automatic increase in valuation amounting to more than 10%, but Lawrence County is not included within that order of the State Tax Commission. Does the act provide relief for these tax payers in

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Newton County, Missouri, as far as this School levy is concerned, and is the school board of School District No. 6 required to revise and lower their rates to take care of the Newton County tax payers?"

The difficulty in construing Senate Bill No. 286, 68th General Assembly, in connection with the situation which you have presented is that in providing that when there is an increase in valuation "within the county," etc., the rate of levy should be reduced, the Legislature failed to recognize that many school districts extend into more than one county. However, we must be guided by what the apparent intent of the Legislature was in enacting this bill.

The bill, including the emergency clause, reads as follows:

"Section 1. Whenever the assessed valuation of real or personal property within the county has been increased by ten per cent or more over the prior year's valuation, either by an order of the state tax commission or by other action, and such increase is made after the rate of levy has been determined and levied by the county court, city council, school board, township board or other bodies legally authorized to make levies, and certified to the county clerk, then such taxing authorities shall immediately revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy. Where the taxing authority is a school district it shall only be required hereby to revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy, plus such additional amounts as may be necessary approximately to offset said district's reduction in the apportionment of state school moneys due to its increased valuation. The lower rate of

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levy shall then be recertified to the county clerk and extended upon the tax books for the current year. The term 'rate of levy' as used herein shall include not only those rates the taxing authorities shall be authorized to levy without a vote, but also those rates which have been or may be authorized by elections for additional or special purposes. No levy for public schools or libraries shall be reduced below a point that would entitle them to participate in state funds.

"Section 2. Because the state tax commission has announced that it is going to order a large increase in the assessed valuations of property in many counties in this state which will result in hardship for the citizens of this state unless the rate of levies are correspondingly reduced, and because the present law does not adequately protect the people of this state, and because this act is necessary for the immediate preservation of the public peace, health and safety of the inhabitants of this state, an emergency exists within the meaning of the constitution, and this act shall be in full force and effect from and after its passage and approval."

The emergency clause recites the background and the purpose for the enactment of the bill. The reason for the bill was the announcement of the State Tax Commission that it was going to order a large increase in the assessed valuations in many of the counties which would result in hardship for the citizens of the state unless the tax rates were reduced. The purpose of the bill was to require the various taxing authorities to reduce the rate of levy where the State Tax Commission had ordered such an increase after the rate of levy had been determined by the taxing authority in order to prevent the hardship that would otherwise result to the taxpaying citizens of this state.

We believe that it was the intention of the Legislature that if the assessed valuation was increased by more than ten per cent in part or all of a school district, the district as one of the taxing authorities should reduce its rate of levy as

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therein specified. Of course, the people in Newton County who are residents of School District No. 6 of Lawrence County will not get the benefit of a full reduction in their tax rates equal to the percentage of the increase in valuation. This is so because the rate of taxation must be uniform for the whole district (Sec. 3, Art. X, Const. of Mo. 1945) and the district is required to reduce its levy only to the rate necessary to produce "substantially the same amount of taxes as previously estimated to be produced by the original levy, plus such additional amounts as may be necessary approximately to offset said district's reduction in the apportionment of state school moneys due to its increased valuation." Also, it is provided that no levy for public schools shall be reduced below a point that would entitle the district to participate in state funds.

Considering the bill as a whole, its over-all purpose and the reason for its enactment, we are of the opinion that the school board of School District No. 6 of Lawrence County is required to redetermine and reduce its tax rates based upon the new assessed valuation of the district so as to produce substantially the same amount of taxes as previously estimated to be produced by the original levy, etc.

CONCLUSION

It is the opinion of this office that where the territory of a school district of county number one extends into county number two and the assessed valuation of county number two is increased more than ten per cent by order of the State Tax Commission after the rate of levy for the district has been determined by the school board and the assessed valuation of county number one is not so increased, the school board is required to redetermine its rate of levy on the basis of the new assessed valuation of the district so as to produce substantially the same amount of taxes as previously estimated to be produced by the original levy, etc., in accordance with Senate Bill No. 286, 68th General Assembly.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON
Attorney General

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