

TAX LEVY:  
COUNTY JAIL:

A proposition submitted to the voters of Dade County at the election to be held November 8, 1960, to increase the constitutional tax rate 10 cents on the one hundred dollars valuation, if such proposition receives the required vote that it would be legal for the county court to proceed to build the jail from the proceeds acquired by the additional tax.

October 31, 1960



Mr. J. W. Colley  
Prosecuting Attorney  
Dade County  
Greenfield, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"The following petition has been signed by more than 10% of the qualified voters of Dade County and has been filed with the County Court of Dade County, Missouri.

'We the following signed qualified voters of Dade County, Missouri, respectfully petition the Honorable County Court of Dade County, Missouri, to submit a proposition for the increase of the constitutional tax rate, for the purpose of building a County Jail and Residence for the Sheriff, of ten cents on the hundred dollars valuation for a period of time, not to exceed four (4) years.

Said proposition to be submitted to the voters of Dade County, Missouri, at the next regular election, to be held on November 8, 1960.'

The County Court has asked me to write you and inquire if, at the election on November 8, this proposition carries by 2/3's vote, would it be legal for the County Court to go ahead and build a Jail here in Dade County, Missouri, from the proceeds acquired by this additional tax?

It seems to me as if this question is covered by Sec. 137.065, however, the Court seems to want your opinion on this matter."

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Section 137.065, RSMo 1949, reads:

"Limit of county taxes -- increase -- special election -- ballot -- notice --,

1. For county purposes the annual tax on property, not including taxes for the payment of valid bonded indebtedness or renewal bonds issued in lieu thereof, shall not exceed the rates herein specified: In counties having three hundred million dollars or more assessed valuation the rates shall not exceed thirty-five cents on the hundred dollars assessed valuation; and in counties having less than three hundred million dollars assessed valuation the rate shall not exceed fifty cents; provided, that in any county the maximum rates of taxation as herein limited may be increased for not to exceed four years, when the rate and purpose of the increase are submitted to a vote and two-thirds of the qualified electors of the county voting thereon shall vote therefor.

2. County courts are hereby authorized to call and conduct a special election under the laws governing such election for the purpose of increasing maximum tax rates herein specified, or to submit a proposition for the increase of such rates at any regular election, and shall submit any such proposition at either a special or regular election when petitioned therefor by not less than ten per cent of the qualified voters of the county as determined by the total vote cast for governor in the last preceding general election for governor, and the proposition shall be as follows on the ballot: 'For a levy for county purposes of . . . . on the hundred dollars valuation' and 'Against a levy for county purposes of . . . . on the hundred dollars valuation.'

3. Special elections called under the provisions of this section shall be limited to one election for each twelve month period.

4. The county court shall publish a notice of said election in some newspaper published in said county in the following manner: If a daily paper, for seven successive days, and if a weekly newspaper, in two issues thereof, and the election shall be held not less than five, nor more than ten days, from the last insertion thereof; provided,

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that in all counties having a board of election commissioners such election when called by the county court shall be conducted by the board of election commissioners as provided by law. (11046, A. L. 1943 p. 1008, A. L. 1945 p. 1778, A. L. 1947 V. I p 539, A. L. 1947 V. II p. 422)"

We next call attention to Section 49.310, RSMo 1949, which reads:

"County court may erect and maintain courthouse, jail, etc. -- issue bonds. -- The county court in each county in this state shall erect and maintain at the established seat of justice a good and sufficient courthouse, jail and necessary fireproof buildings for the preservation of the records of the county. In pursuance of the authority herein delegated to the county courts, said county courts may acquire a site, construct, reconstruct, remodel, repair, maintain and equip said courthouse and jail and in counties wherein more than one place is provided by law for holding of court, the county court may buy and equip or acquire a site and construct a building or buildings to be used as a courthouse and jail, and may remodel, repair, maintain and equip such building in said place or places. The county court may issue bonds as provided by the general law covering the issuance of bonds by counties for the purposes set forth in this section. In bond elections for the aforesaid purposes in counties wherein more than one place is provided by law for holding of court, a separate ballot question may be submitted covering proposed expenditures in each separate site described therein, or a single ballot question may be submitted covering proposed expenditures at more than one site, if the amount of said proposed expenditures at each of said sites is specifically set out therein. (13702, A. L. 1945 p. 1399)"

In view of the above it would appear that if the proposition for the increase in tax rate does receive the necessary vote in the November election that it would be legal for the county court to build the proposed jail.

#### CONCLUSION

It is the opinion of this department that a proposition submitted to the voters of Dade County at the election to be held November 8, 1960, to increase the constitutional tax rate 10 cents on the one hundred dollars valuation, if such proposition receives the required vote that it would be legal for the county court to

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proceed to build the jail from the proceeds acquired by the additional tax.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON  
Attorney General

HPW:ms