

JOHNSON GRASS: (1) In counties with township organization it would
TOWNSHIP COUNTIES: be the responsibility of the township to control
TAXATION: Johnson grass on the right of ways which are owned,
occupied or controlled by those individual townships;
(2) Townships in counties under township organization declared a
Johnson grass extermination area, authorized by Section 263.265, V.A.M.S.
1959 to levy upon all property subject to their authority a tax in an
amount not to exceed five cents on each \$100 assessed valuation, for
the purposes of this act, are of necessity the governing body which
determines the amount of that tax to be levied within the maximum
allowed.

August 31, 1960

Honorable J. S. Williamson
Commissioner of Agriculture
Jefferson Building
Jefferson City, Missouri



Dear Mr. Williamson:

This is in response to your letter of May 10, 1960, in which,
in referring to Sections 263.255 through 263.267, RSMo Cum. Supp.
1957, you ask the following questions:

"In your opinion, in counties with township organization, would the county court be responsible for the control of Johnson grass on county right of ways or would it be the responsibility of the township organization?"

"Secondly, does the law permit individual townships to decide the amount, if any, of tax to levy under the purposes of the law. We cite the following situation as an example: A county has elected to enforce the law, but this county, being under a township organization has certain township boards that refuse to levy a tax saying that Johnson grass is no problem in that particular township.

"Our question, is this possible under the law?"

In answer to your first question, we direct your attention to Section 263.261, RSMo Cum. Supp. 1957, which we quote:

"It shall be the duty of public utilities, the state highway department, the county court, railroads, drainage districts, township boards, special road districts and other public and quasi-public corporations and every land owner in Johnson grass extermination areas:

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(1) To control and eradicate Johnson grass and to prevent its regrowth and reinfestation on all lands, right of ways and easements owned, occupied or controlled by them;

(2) To employ methods of control and eradication and for the prevention of the regrowth and reinfestation of Johnson grass as directed by the commissioner of agriculture or the county weed control board;

(3) To comply with all orders, rules and regulations promulgated by the commissioner of agriculture pursuant to the provisions of sections 263.255 to 263.267."

From Section 263.261 you will note that the control and eradication of Johnson grass and the prevention of its regrowth and reinfestation is the responsibility of the specific political subdivisions which control or own the lands, right of ways and easements upon which the Johnson grass is found. It would seem logical to conclude from this section that a township board is supposed to control and eradicate the Johnson grass on the lands and right of ways which that township owns, occupies or controls by virtue of its township form of government, and that a county court would control and eradicate Johnson grass on all lands and right of ways owned, occupied or controlled by a county not under township organization.

Section 263.265, V.A.M.S. 1959, reads as follows:

"The county court, township board and special road district of any county declared a Johnson grass extermination area, in addition to any and all taxing powers which it may possess shall be authorized to levy upon all property subject to its authority a tax in an amount not to exceed five cents on each one hundred dollars assessed valuation, for the purpose of paying the expenses of the county weed control board or the agent of the board in making the inspection required under the provisions of section 263.259, and for the expense of controlling and eradicating Johnson grass on county roads and right of ways, provided that not more than twenty-

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five per cent of the taxes so levied and collected shall be used for administrative purposes. The cost of control and eradication of Johnson grass on all lands and highways owned or supervised by the state highway department shall be paid by the highway department out of funds appropriated for its use."

In answer to your second question you will see that Section 263.265, supra, authorizes the county court, township board, and a special road district of any county declared a Johnson grass extermination area to levy upon all property subject to their authority a tax in an amount not to exceed five cents on each \$100.00 assessed valuation. Since it is the responsibility of these various political subdivisions to control and eradicate Johnson grass on all lands occupied or controlled by them, and since these specific political subdivisions are authorized to levy a tax not to exceed five cents for that purpose, it would be considered consistent with the purport of this law, and consistent with the general taxation laws to conclude that the political subdivision in question is to determine the amount, if any, of the tax to levy for the purpose of this law. The amount decided upon, would of necessity, be within the maximum allowed by Section 263.265, supra.

CONCLUSION

It is the opinion of this office that:

(1) In counties with township organization it would be the responsibility of the township to control Johnson grass on the right of ways which are owned, occupied or controlled by those individual townships.

(2) Townships in counties under township organization declared a Johnson grass extermination area, authorized by Section 263.265, V.A.M.S. 1959, to levy upon all property subject to their authority a tax in an amount not to exceed five cents on each \$100.00 assessed valuation, for the purposes of this act, are of necessity the governing body which determines the amount of that tax to be levied within the maximum allowed.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James B. Slusher.

Yours very truly,

JOHN M. DALTON
Attorney General

JBS/mlw