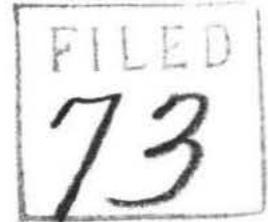


SCHOOLS:
SCHOOL TAXES:

City school districts having population of less than 75,000 inhabitants may increase tax rate unlimited in amount not to exceed four years with approval of two-thirds of voters or may increase tax rate not to exceed \$3.00 for one year with approval of majority of the voters.

February 15, 1963



Opinion No. 73

Honorable Earl R. Blackwell
State Senator
Hillsboro, Missouri

Dear Mr. Blackwell:

On January 21, 1963, you requested an official opinion from this office as follows:

"I understand that the law provides that any levy over 3 times the \$1.00 constitutional limit requires a 2/3rds vote. If the levy is \$3.00 or under then it can be passed by a simple majority. Further, if any levy is passed to extend for more than one year, it requires a 2/3rds majority.

"One of the school systems in my district has exhausted its bonding capacity and is in dire need of additional classrooms. In view of this, their only solution is to submit a special building levy for three years to provide the fund necessary for these new rooms. They desire to submit this proposition at a special election in March, and they concede it must have a 2/3rds majority. Will the \$3.00 levy require a 2/3rds majority on the first year and will it also require a 2/3rds majority for the second and third year of the building fund levy?"

We assume from the facts stated in your letter that the school district involved is a school district formed of a city or town having a population of less than 75,000 inhabitants.

Article 10, Section 11(b) of the Constitution of Missouri, 1945, provides for the maximum tax rates that may be imposed upon property by municipalities, counties and school districts in this state without voter approval. For school districts formed of cities and towns, the maximum rate is one dollar on the one hundred dollar assessed valuation.

Article 10, Section 11(c) of the Constitution of Missouri, 1945, as amended on November 7, 1950, RSMo 1959, provides that the maximum rates under Section 11(b) may be increased under certain conditions. It provides in part:

"In all municipalities, counties and school districts the rates of taxation as herein limited may be increased for their respective purposes 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 voting thereon shall vote therefor; provided in school districts the rate of taxation as herein limited may be increased for school purposes so that the total levy shall not exceed three times the limit herein specified and not to exceed one year, when the rate period of levy and the purpose of the increase are submitted to a vote and a majority of the qualified electors voting thereon shall vote therefor; * * * provided, that the rates herein fixed, and the amounts by which they may be increased, may be further limited by law; * * *"

In Rathjen v. Reorganized School District R-II, 284 SW2d 516, the above constitutional provisions were before the court for consideration. In that case the school district in a special election had submitted a proposition to increase the school levy in excess of the one dollar maximum for a period of one year but not in excess of three times such maximum, the revenue derived therefrom to be used as a building fund for the elementary school. The proposal carried by a majority vote but was less than the two-thirds majority of the votes cast at the election. In discussing the question of whether a majority of the votes cast in favor of the proposition was sufficient, the Supreme Court of Missouri stated, l.c. 256:

"A school tax voted by a two-thirds majority may be in an unlimited amount and may be effective for not to exceed four years. A tax carried by a simple majority, however, must be limited to three times basic limit of one dollar and can be effective for one year only."

Section 165.080, RSMo 1959, implements the above constitutional provision. In part it provides the method for determining whether it is necessary to increase the tax rate and the method of holding the election. It further provides that "if the majority of the qualified voters voting thereon as required by Article 10, Section 11 of the Constitution, shall favor the proposed increase", it shall be certified to the county clerk and thus become effective. The term "majority of the qualified voters voting thereon" as used in the statute means the majority as required by the constitution depending upon the amount of the tax rate and the period of time for which it is to be effective. The statute is in harmony with the Constitution on this particular point.

CONCLUSION

Under the above constitutional and statutory provisions, a school district formed of a city or town having a population of less than 75,000 inhabitants has two alternatives in the method to be used in increasing the school tax in excess of the maximum provided for under Section 11(b) of Article 10 of the Constitution.

1. It may submit a tax rate unlimited in amount for a period of time not exceeding four years which proposition would require the affirmative vote of two-thirds of the voters voting thereon before it would be effective.

2. The district may submit a tax rate not in excess of three times the maximum provided for under Section 11(b) of Article 10 of the Constitution which would require the affirmative vote of only a majority of the voters voting thereon for its approval. This kind of proposition could be submitted to the voters without any limitation as to number of submissions so long as it was submitted each year and received the approval of the majority of the votes cast.

Honorable Earl R. Blackwell -4-

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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