

Opinion No. 131
Answered by letter
(Nowotny)

May 27, 1965



Honorable Patricia L. Webber
Prosecuting Attorney
Livingston County
Chillicothe, Missouri

Dear Ms. Webber:

This is in reply to your request for an opinion of this office reading as follows:

"In 1959 a \$25,000.00 road bond issue was passed in Grand River Township. The last payment on this issue will be due in March, 1971.

"The 1964 levies in Grand River Township excluding school and library levies were as follows:

"STATE	LIVINGSTON COUNTY	TOWNSHIP RATE	ROAD & BRIDGE	ROAD BOND
.07	.40	.10	{Twp. 30 } {County .05 } .35	.30

"The Livingston County Court has asked this office the following question: 'May a general road district be formed in Grand River Township and an election held for the purpose of voting on additional road taxes not to exceed thirty-five cents on each one hundred dollars assessed valuation under article X, section 12A of the Missouri Constitution, when a road and bridge levy and a road bond levy already exist in the township?'"

Article X, Section 11(b), of the Missouri Constitution, prescribes limitations on tax rates for municipalities, counties and school districts.

Article X, Section 11(e), says that:

"The foregoing limitations on rates shall not apply to taxes levied for the purpose of paying any bonded debt."

Article X, Section 12(a), then says that:

"In addition to the rates authorized in section 11 for county purposes, . . . the township board of directors in the counties under township organization, . . ., may levy an additional tax, not exceeding thirty-five cents on each hundred dollars assessed valuation, all of such tax to be collected and turned in to the county treasury to be used for road and bridge purposes. In addition to the above levy for road and bridge purposes, it shall be the duty of the county court, when so authorized by a majority of the qualified electors of any road district, general or special, voting thereon at an election held for such purpose, to make an additional levy of not to exceed thirty-five cents on the hundred dollars assessed valuation on all taxable real and tangible personal property within such district, to be collected in the same manner as state and county taxes, and placed to the credit of the road district authorizing such levy, such election to be called and held in the manner provided by law."

Your letter discloses that the township in question already has a thirty-five cent additional road and bridge levy as permitted by the first sentence of Article X, Section 12(a), and Section 137.585, RSMo 1959. The township also has a road bond levy. Your question seems to be whether the tax levy allowed by the second sentence of Section 12(a) is already fulfilled by this bond levy.

It is our opinion that such a bond levy does not arise from the provisions of Section 12(a) since the Section 11(b) limitations on rates do not apply to taxes for bonds and Section 12(a) rates are in addition to Section 11 rates. Road bonds are provided for by Section 233.450, RSMo 1959, and taxes for these bonds by Section 108.280, RSMo 1959. Thus, under the second sentence of Article X, Section 12(a), another levy not to exceed thirty-five cents would be allowable as a road district levy.

As to forming a general road district and holding an election, we refer you to Sections 231.160 and 137.565, RSMo 1959, and the enclosed opinions of this office to Honorable R. Kip Briney, dated

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May 1, 1945, Honorable Herbert S. Brown, dated February 4, 1947,
Honorable C. E. Ernst, dated July 25, 1947 and Honorable Wayne
Norman, dated December 8, 1947.

Very truly yours,

NORMAN H. ANDERSON
Attorney General