

August 11, 1966

OPINION NO. 395
Answered by letter-Randolph

Honorable Don Witt
Prosecuting Attorney
Platte County
Platte City, Missouri

FILED
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Dear Mr. Witt:

This letter is in answer to your request for an opinion of this office on the question whether a county court has the authority to levy the special tax mentioned in Section 64.755, RSMo Cum. Supp. 1965, without a vote of the people. Said Section 64.755 reads:

"1. The governing body of any political subdivision may provide, establish, equip, develop, operate, maintain and conduct a system of public recreation, including parks and other recreational grounds, playgrounds, recreational centers, swimming pools, and any and all other recreational areas, facilities and activities, and may do so by purchase, gift, lease, condemnation, exchange or otherwise, and may employ necessary personnel. Funds to be spent for such purposes may be set up in their respective budgets by any governing body.

2. If sufficient funds cannot be made available from ordinary levies, additional funds may be raised by a special tax levy, or bond issue within constitutional limits, but no special tax shall be levied or any bonds issued by any political subdivision unless the rate and purpose of the tax or bond issue is submitted to a vote and a two-thirds majority of the qualified voters voting thereon vote therefor. The rate of such special tax levied by one or more political subdivisions or by cooperating political subdivisions shall not total in the aggregate more than two mills on each one dollar assessed valuation of all real and tangible personal property subject to its or their taxing pow-

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ers. In the event that any political subdivision is now authorized by statute to levy a tax for this purpose the combined levies authorized by such statute and by this section shall not exceed the larger levy authorized." (Emphasis supplied)

The express language of paragraph 2 of Section 64.755, supra, as shown by the underlining requires such a levy to be voted as therein provided; hence we conclude that a county court does not have the authority to levy the special tax mentioned therein without a vote of the people.

Very truly yours,

NORMAN H. ANDERSON
Attorney General