

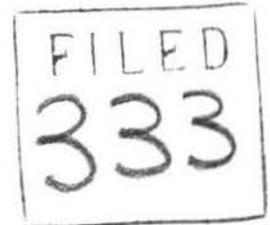
TAXATION (COUNTY):
COUNTY AMBULANCE SERVICE:

A county can submit to the voters under Section 137.065, RSMo 1959, a proposed increase in County Revenue Tax for the establishment and maintenance of the ambulance service authorized by Section 67.300, RSMo Cum. Supp., 1967.

OPINION NO. 333

July 30, 1968

Honorable Maurice B. Graham
Prosecuting Attorney
Madison County
148 East Main Street
Fredericktown, Missouri 63645



Dear Mr. Graham:

This is in response to your request for an opinion concerning whether a county can submit to the voters under Section 137.065, RSMo 1959, a proposed increase in County Revenue Tax for the establishment and maintenance of the ambulance service authorized by Section 67.300, RSMo Cum. Supp., 1967.

The applicable tax provisions are as follows:

Article X, §1, Missouri Constitution reads as follows:

§ 1 "The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes." (emphasis added)

Section 137.035 reads as follows:

"The following named taxes shall hereafter be assessed, levied and collected in the several counties in this state, and only in the manner, and not to exceed the rates prescribed by the constitution and laws of this state, viz: * * * * *the taxes for current expenditures for counties, townships, municipalities, road districts and school districts, including taxes which may be levied for library, hospitals, public health, recreation grounds, and museum purposes, as authorized by law."

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Section 137.065 reads as follows:

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 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:

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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, 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." (R.S. 1939, § 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)

The above quoted provisions indicate that the county court may call and conduct an election for the purpose of increasing maximum tax rates so long as the tax is for "county purposes".

Section 67.300, RSMo Cum. Supp., 1967 provides as follows:

"Any county, city, town or village may provide a general ambulance service for the purpose of transporting sick or injured persons to a hospital, clinic, sanatorium or other place for treatment of the illness or injury, and for that purpose may

(1) Acquire by gift or purchase one or more motor vehicles suitable for such purpose and may supply and equip the same with such materials and facilities as are necessary for emergency treatment, and may operate, maintain, repair and replace such vehicles, supplies and equipment;

(2) Contract with one or more individuals, municipalities, counties, associations or other organizations for the operation, maintenance and repair of such vehicles and for the furnishing of emergency treatment;

(3) Employ any combination of the methods authorized in subdivision (1) and (2) of this section.

2. The municipality or county shall formulate rules and regulations for the use of the equipment and may fix a schedule of

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fees or charges to be paid by persons requesting the use of the facilities and provide for the collection thereof.

3. The municipality or county may purchase insurance indemnifying against liability of the county or city and the driver and attendants of the ambulance for the negligent operation of the ambulance or other equipment or supplies or in rendering services incidental to the furnishing of the ambulance service."

The emergency clause which was attached to Section 67.300 at the time it was adopted by the legislature amplifies the public concern and county purpose involved in this statute.

"Because of the serious need for general ambulance service in many areas of the state, and because the lack of this service could result in permanent injury or death to many citizens of Missouri, this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution and this act shall be in full force and effect upon its passage and approval." Emergency Clause to H.B. 213 74th General Assembly (Emphasis added)

Although there are no Missouri decisions which undertake to define what is meant by "county purposes", other jurisdictions have considered this problem and reached conclusions which support the idea that a county ambulance service is a "county purpose" within the taxing statutes.

In Johnson v. Donham (Ark. 1935), 84 S.W. 2d 374, 375, the Arkansas Supreme Court said:

"The 'county purposes' for which the county's money may be disbursed are those purposes which promote the welfare of the county as a whole and of its citizens -- such as, the erection of county buildings, bridges over county roads, and such other purposes as would promote the general health and welfare of its citizens...."

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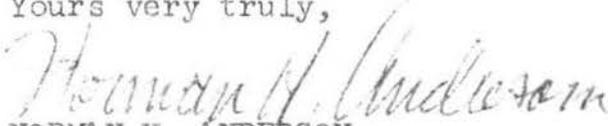
The Tennessee Supreme Court in Carter v. Beeler, (Tenn. 1949), 219 S.W. 2d 195 held that a private act authorizing a county to issue bonds to acquire a site for a hospital and to erect a hospital thereon was authorized under a constitutional provision that the General Assembly shall have power to authorize counties to impose taxes for "county purposes".

CONCLUSION

Therefore, it is the opinion of this office that a county can submit to the voters under Section 137.065, RSMo 1959, a proposed increase in County Revenue Tax for the establishment and maintenance of the ambulance service authorized by Section 67.-300, RSMo Cum. Supp., 1967.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard E. Dorr.

Yours very truly,


NORMAN H. ANDERSON
Attorney General