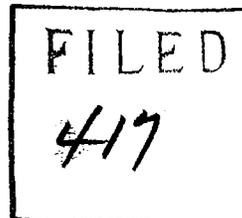


COUNTIES: The county court of a second class county
TAX LEVY: having anticipated the assessed valuation of
TAXATION: the county to be in excess of \$300 million
cannot consistent with Article X, Section 11(b),
Missouri Constitution, and Section 50.550, RSMo 1959, propose
and adopt a budget for the next fiscal year within which budget
there is a recommendation for a tax levy in excess of 35 cents
per hundred dollars of assessed valuation.

OPINION NO. 417

November 25, 1969

Honorable George W. Parker
State Representative
120th District
819 Chestland
Columbia, Missouri 65201



Dear Representative Parker:

This is in answer to your request for an opinion in which you ask whether the county court of a second class county anticipating an assessed valuation in the year 1970 to be in excess of 300 million dollars can consistent with Article X, Section 11(b), Missouri Constitution, recommend a tax levy in excess of 35 cents per hundred assessed valuation.

As you note, Article X, Section 11(b), of the Missouri Constitution, sets the limits within which the county court may levy a property tax:

"Section 11(b). Any tax imposed upon such property by municipalities, counties or school districts, for their respective purposes, shall not exceed the following annual rates:

* * * * *

"For counties--thirty-five cents on the hundred dollars assessed valuation in counties having three hundred million dollars, or more, assessed valuation, and fifty cents on the hundred dollars assessed valuation in all other counties. . ."

As can be seen, when the assessed valuation of a county reaches 300 million dollars or more, the property tax imposed by the county may not exceed 35 cents on the one-hundred dollars assessed valuation. In this frame of reference, however, the question becomes whether it is incumbent upon the county court,

Honorable George W. Parker

having anticipated as assessed valuation for the coming fiscal year to be in excess of \$300 million, to recommend a budget consistent with Article X, Section 11(b), with the anticipated tax levy not to exceed 35 cents per hundred of assessed valuation.

It would appear that to be consistent with the "County Budget Law," Sections 50.525 - 50.740, V.A.M.S., the county court has the affirmative duty to set forth a comprehensive financial plan and must attempt, as close as is reasonably possible, to propose a balanced budget. Additionally, the budget must set forth in detail the anticipated income and other means of financing the proposed county expenditures. Section 50.550, RSMo 1959:

"The annual budget shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or estimated operating deficits or surpluses from prior years; all interest and debt redemption charges during the year and expenditures for capital projects. The budget shall contain adequate provisions for the expenditures necessary for the care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs of holding circuit court in the county that are chargeable against the county, for the repair and upkeep of bridges other than on state highways and not in any special road district, and for the salaries, office expenses and deputy and clerical hire of all county officers and agencies. In addition, the budget shall set forth in detail the anticipated income and other means of financing the proposed expenditures. . . ."
(Emphasis added).

Thus, it would appear inconsistent with the duties set out above for a county court which anticipates the assessed valuation of the county to be in excess of 300 million dollars to propose and adopt a budget which recommends a tax levy in excess of 35 cents per hundred dollars of assessed valuation. Therefore, it is the conclusion of this office that the county court of a second class county having anticipated the assessed valuation of the county to be in excess of 300 million dollars cannot consistent with Article X, Section 11(b), Missouri Constitution, and Section 50.550, RSMo 1959, propose and adopt a budget for the next fiscal year within which budget is contained a recommendation for a tax

Honorable George W. Parker

levy in excess of 35 cents per hundred dollars of assessed valuation.

II.

In light of the fact that we have drawn a negative conclusion in respect to the first question you asked, we do not reach your second question in which you requested an opinion on the following:

"Can the county court of a second class county, with an assessed valuation greater than \$300,000,000, levy a tax as per RSMo 137.055 in excess of 35¢ per hundred for that fiscal year, the court previously having adopted a budget as per RSMo 50.610 with a recommended tax levy above 35¢ per hundred assessed valuation for that fiscal year?"

CONCLUSION

It is the conclusion of this office that the county court of a second class county having anticipated the assessed valuation of the county to be in excess of \$300 million cannot consistent with Article X, Section 11(b), Missouri Constitution and Section 50.550, RSMo 1959, propose and adopt a budget for the next fiscal year within which budget there is a recommendation for a tax levy in excess of 35 cents per hundred dollars of assessed valuation.

The foregoing opinion, which I hereby approve, has been prepared by my assistant, Kenneth M. Romines.

Yours very truly,



JOHN C. DANFORTH
Attorney General