

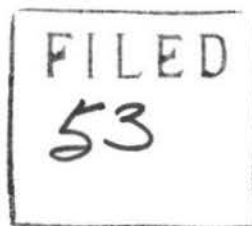
SCHOOLS:
ELECTIONS:
TAXATION (SCHOOLS):

Section 164.021, RSMo 1969, provides that a certain number of voters in a school district may petition the school board requesting that a proposal to raise the school tax rate be submitted to the voters. Upon receipt of a petition in compliance with subsection 1 of Section 164.021, RSMo 1969, the school board must determine the rate of taxation necessary to be levied in excess of the authorized rate but the board is not required to submit the rate, if any, proposed in the petition.

OPINION NO. 53

April 19, 1971

Honorable Stephen Burns
Representative, District 42
Room 203D, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Burns:

This official opinion is issued in response to your request for a ruling on the following question:

"In recent months citizens groups throughout the state have initiated petition campaigns directed at their local School Boards. The purpose of these petitions was to require the school boards to call an election to affirm or reject a school tax levy as specified by the petitioners.

"Missouri Statute 164.021 is apparently the authority for such petitions however this statute has been interpreted by the School Boards in a manner that adversely [sic] affects the petitioners request. Since this interpretation has never been challenged in the Courts I am asking you to request an opinion of the State Attorney General.

"The particular question (as I see it) that should be asked is:

"Does Missouri Statute 164.021 grant to the voters the right to petition a district School Board, such petition calling for the School Board to place before the

Honorable Stephen Burns

voters a proposed school tax levy as specified in the petition, and is such a petition (if found to conform to all the provisions of the above statute) binding on the part of the district School Board?"

We understand from the foregoing that the petition signed by the required number of voters requests that the school board submit to the voters a specific tax rate which is higher than the one currently in effect in the district. You inquire whether under Section 164.021 the school board must submit to the voters the tax rate proposed in the petition.

Subsection 1 of Section 164.021, RSMo 1969, provides as follows:

"Increase of tax rate beyond constitutional limits--procedure.--1. Whenever it becomes necessary, in the judgment of the school board of any school district in the state, to increase the annual rate of taxation beyond the rate authorized by the constitution for district purposes without voter approval, or when voters of the district equal in number to ten percent or more of the number of votes cast for the member of the school board receiving the greater number of votes cast at the last school election in the district petition the board, in writing, for such an increase of the rate, the board shall determine the rate of taxation necessary to be levied in excess of the authorized rate, and the purpose or purposes for which the increase is required, specifying separately the rate of increase required for each purpose, and the number of years, not in excess of four, for which each proposed excess rate is to be effective. The proposal may provide for a greater rate of increase in one or more years than in others and acceptance of a proposal to increase the tax levy for any year or years shall not prevent the board from subsequently proposing a further increase in the tax levy for the same year or years." (Emphasis supplied)

We have searched for a reported decision in Missouri interpreting subsection 1 of Section 164.021 and have found none. Therefore, we must rely on accepted rules of statutory interpretation in answering your question.

Honorable Stephen Burns

The primary rule of statutory interpretation is to ascertain from the language used the intent of the legislature and to put upon the language used its plain and rational meaning in order to promote its object. Donnelly Garment Co. v. Keitel, 354 Mo. 1138, 193 S.W.2d 577, 581 (1946). Primary emphasis must be placed on the language used and all words must be considered in their ordinary and plain meaning. Section 1.090, RSMo 1969; Christy v. Petrus, 365 Mo. 1187, 295 S.W.2d 122, 126 (1956); Playboy Club, Inc. v. Myers, 431 S.W.2d 228, 231 (Mo. 1968). When the language of the statute is explicit and unambiguous and its meaning clear and unmistakable:

" . . . there is neither reason nor room for judicial construction . . . and, we find nothing in Section 443.430 (or in any related statute) which would indicate a legislative intent that the non-technical and commonplace language hereinbefore quoted from the cited statute should be construed otherwise than in its natural, plain and ordinary sense and meaning, or which would afford any legitimate basis for refusal to accept and apply that language honestly and faithfully. . . ." State ex rel. Hopkins v. Stemmons, 302 S.W.2d 51, 55 (Mo.App. 1957); State ex rel. Cobb v. Thompson, 319 Mo. 492, 5 S.W.2d 57, 59 (1928)

Subsection 1 of Section 164.021 provides two methods for determining when a school board shall propose a higher tax rate to the voters of the district -- (1) when a higher rate "becomes necessary in the judgment of the school board" or (2) when the required number of voters petition the school board in writing. Upon the happening of either (1) or (2), "the board shall determine the rate of taxation necessary to be levied in excess of the authorized vote. . . ." The ordinary and plain meaning of this provision of subsection 1 is that the school board and not the petitioners determines the tax rate which will be proposed to the voters.

CONCLUSION

Therefore, it is the opinion of this office that Section 164.021, RSMo 1969, provides that a certain number of voters in a school district may petition the school board requesting that a proposal to raise the school tax rate be submitted to the voters. Upon receipt of a petition in compliance with subsection 1 of Section 164.021, RSMo 1969, the school board must determine the rate of taxation necessary to be levied in excess of the authorized rate but the board is not required to submit the rate, if any, proposed in the petition.

Honorable Stephen Burns

The foregoing opinion, which I hereby approve, was prepared by my Assistant, D. Brook Bartlett.

Yours very truly,

A handwritten signature in cursive script, reading "John C. Danforth". The signature is written in black ink and is positioned above the printed name and title.

JOHN C. DANFORTH
Attorney General