



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

August 16, 1976

OPINION LETTER NO. 163

Honorable John T. Russell
Representative, District 150
P. O. Box 97
Lebanon, Missouri 65536

Dear Representative Russell:

This letter is in response to your question asking:

"Can a Special Business District established in accordance with Chapter 71.790 levy a business license tax within the District if the city where the Special Business District is located does not have a license business tax?"

You also state:

"The Special Business District has been formed in accordance with Sec. 71.790 and during the reading of the ordinance someone raised the question of the Special District being authorized to levy a business tax within the district if the City of Lebanon does not have a business license tax. See Sec. 71.800."

Subsection 2 of Section 71.800, RSMo Supp. 1975, provides:

"For the purpose of paying for all costs and expenses incurred in the operation of the district and the provision of services or improvements authorized in section 71.796, the district may impose an additional business license tax on businesses and individuals licensed to do business within the district which shall not exceed fifty percent of

Honorable John T. Russell

any existing license taxes levied by the governing body within the district. Whenever a hearing is held herein, the governing body shall hear all protests and receive evidence for or against the proposed action; rule upon all protests which determination shall be final; and may continue the hearing from time to time. Proceedings shall terminate if protest is made by businesses in the proposed area which pay a majority of the taxes within the area under the general business license tax. For purposes of the additional tax to be imposed pursuant to this part, the governing body of the city may make a reasonable classification of businesses, giving consideration to various factors."

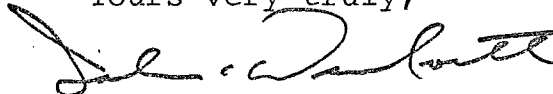
We believe the language of the subsection is quite clear. It provides for levy of a tax on:

". . . businesses and individuals licensed to do business within the district which shall not exceed fifty percent of any existing license taxes levied by the governing body within the district. . . ."

Therefore, the subsection is not only limited to a tax on businesses and individuals licensed to do business within the district, but the tax is also limited to fifty percent of any existing license taxes levied by the governing body within the district. We point out that under Section 71.790 the term "governing body" means the governing body of the city.

The answer to your question thus is that there would be no way for a special business district established in accordance with the provisions of Sections 71.790, et seq., RSMo, to levy a business license tax under subsection 2 of Section 71.800 if there are no existing license taxes levied by the governing body within the district.

Yours very truly,



JOHN C. DANFORTH
Attorney General