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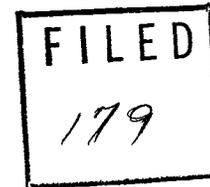
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OPINION LETTER NO. 179-87

Frederick A. Brunner, Ph.D., P.E.
Director, Department of Natural Resources
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Dear Dr. Brunner:

This opinion letter is in response to your questions concerning the expenditure of funds appropriated in Section 7.457 of Conference Committee Substitute for House Bill No. 7, 84th General Assembly, First Regular Session. The questions you posed can be summarized as follows:

1. Is it legally permissible for money raised from the additional sales and use taxes authorized by Section 47(a) of Article IV of the Missouri Constitution to be used for the repair of levees maintained by levee districts?

2. Does the appropriation in Section 7.457 of House Bill No. 7 allow the Department of Natural Resources to expend the funds appropriated in that section of the bill to levee districts for the repair of levees?

Section 47(a) of Article IV of the Missouri Constitution provides for the levy of a sales and use tax for the purpose of providing additional money for the conservation and management of the soil and water resources of the state and the control, management and regulation of the state parks and for the administration of the laws pertaining thereto. Section 47(b) of Article IV provides that any money raised from the additional sales and use taxes can be used by the Department of Natural Resources for the conservation and management of the soil and water resources of the state, for the control, management and regulation of the state parks and for the administration of the laws pertaining thereto and for no other purpose. Further, the

Frederick A. Brunner, Ph.D., P.E.

expenditure of said money shall be made pursuant to appropriation by the General Assembly.

Your first question concerns whether it is legally permissible for the revenue from the additional sales and use taxes to be expended to levee districts for the repair of levees. Among the permissible uses of the revenue set forth in the Constitution is "the conservation and management of the soil and water resources of the state." No definition of this phrase appears in this article of the Missouri Constitution. Words used in constitutional provisions are to be interpreted so as to give effect to their plain, ordinary and natural meaning. Buechner v. Bond, 650 S.W.2d 611, 613 (Mo. banc 1983). The maintenance of levees is certainly important in conserving and managing the soil and water resources of this state. Therefore, the plain, ordinary and natural meaning of "the conservation and management of the soil and water resources of the state" would include the maintenance of levees. In answer to your first question, it is our opinion that there is no constitutional prohibition upon the revenues from the additional sales and use taxes being used for the maintenance of levees if so appropriated by the General Assembly.

The second question you have posed concerns the appropriation involved, Section 7.457 of House Bill No. 7. The appropriation is as follows:

Section 7.457. To the Department of Natural Resources	
For the Division of Environmental Quality	
For the Soil and Water Conservation Program	
For public levy district local matching funds	
From Soil and Water Sales Tax Fund	
(0 F.T.E.)	\$672,000

Section 47(c) of Article IV of the Missouri Constitution provides in part:

All of the provisions of sections 47(a)--(c) shall be self-enforcing except that the general assembly shall adjust brackets for the collection of the sales and use taxes. [Emphasis added.]

In State ex inf. McKittrick v. Wymore, 119 S.W.2d 941 (Mo. banc 1938), the Missouri Supreme Court stated:

"It is within the power of those who adopt a constitution to make some of its provisions self-executing, with the object

Frederick A. Brunner, Ph.D., P.E.

of putting it beyond the power of the legislature to render such provisions nugatory by refusing to pass laws to carry them into effect. * * *

"'Constitutional provisions are self-executing when there is a manifest intention that they should go into immediate effect, and no ancillary legislation is necessary to the enjoyment of a right given, or the enforcement of a duty imposed.' * * *" [Id. at 947.]

Because the provisions of Section 47(b) of Article IV are self-enforcing, the Department is authorized to expend the funds in accordance with that constitutional provision without additional legislation if such funds are appropriated by the General Assembly.

A final concern is that Section 7.457 of House Bill No. 7 uses the word "levy" when, in fact, the funds were probably intended for "levee" districts. Verbal inaccuracies or clerical errors or misprints in statutes will be corrected by a court if necessary to effectuate clear intent of the legislature. Deimeke v. State Highway Commission, 444 S.W.2d 480 (Mo. 1969). We do not deem fatal the apparent typographical error whereby the appropriation bill refers to "levy" where the apparent intent was "levee."

It is the opinion of this office that money raised from the additional sales and use taxes authorized by Section 47(a) of Article IV of the Missouri Constitution may be used for the repair of levees maintained by levee districts and that Section 7.457 of House Bill No. 7 allows the Department of Natural Resources to expend the funds appropriated in that section of the bill to levee districts for the repair of levees.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General