

LEVIES:

COUNTY HEALTH CENTER:

RATES OF LEVY:

TAXATION:

Senate Bill No. 286 requires the lowering of the levy voted for the establishment of a county health center; the proper body to lower the levy is the county court.



August 15, 1955

Honorable W. H. S. O'Brien
Prosecuting Attorney
Jefferson County
Hillsboro, Missouri

Dear Sir:

This is in response to your request for opinion dated July 21, 1955, which reads as follows:

"The Chairman of the Board of Trustees of the Jefferson County Health Department has this day specifically requested that I submit two questions to you for the purpose of clarifying the responsibility of the Board of Trustees of the Jefferson County Health Department with respect to certain provisions of Senate Bill #286 passed by the 68th General Assembly and recently signed by the Governor.

"The questions posed are as follows, to-wit:

"1. Does Senate Bill No. 286, passed by the 68th General Assembly require that the levy, established by a vote of the people for the establishment and operation of a health center, be lowered.

"2. If the answer to the above is yes, does the order for a reduction of the levy emanate from the Board of Trustees of the Jefferson County Health Department or does it emanate from some other source."

In regard to your questions, Section 205.010, RSMo. 1949, should first be noted:

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"Any county, subject to the provisions of the constitution of the state of Missouri, may establish, maintain, manage and operate a public health center in the following manner: Whenever the county court shall be presented with a petition signed by at least ten per cent or more of the qualified voters of the county, as determined by the number of votes cast for governor at the preceding general election, asking that an annual tax not in excess of ten cents on each one hundred dollars of the assessed valuation of property in the county, be levied for the establishment, maintenance, management and operation of a county health center and the maintenance of the personnel required for operation of the health center, the county court shall submit the question to the qualified voters of the county at the next general election to be held in the county or at a special election called for the purpose, the county clerk giving notice, published once each week for two consecutive weeks prior to such election date, in one or more newspapers published in the county, if any such be published, and if not so published, by posting written or printed notices in each township of the county, fourteen days prior to the election date, which notices shall include the text of the petition and state the rate of tax to be levied annually thereafter upon the assessed property of the county."

Senate Bill No. 286 requires as follows:

"Whenever the assessed valuation of real or personal property within the county has been increased by ten per cent or more over the prior year's valuation, either by an order of the state tax commission or by other action, and such increase is made after the rate of levy has been determined and levied by the county court, city council, school board, township board or other bodies legally authorized to make levies, and certified to the county clerk, then such taxing authorities shall immediately revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy. * * *"
(Emphasis ours.)

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Senate Bill No. 286 further defines "rate of levy" to include "those rates which have been or may be authorized by elections for additional or special purposes."

An election to authorize the levying of a tax to establish a county health center is an election for a "special purpose." In answer to your first question, thus, it is our opinion that Senate Bill No. 286 does require that the levy be lowered.

Section 205.020, provides as follows:

"2. If a two-thirds majority of the votes cast at such election on the proposition so submitted, shall vote in favor of such tax, the county court shall proceed to levy and collect such tax and deposit same in the county treasury to the credit of the health center fund and such fund shall be expended as hereinafter provided."

Thus, the county court levies the tax after the authorization for it has been obtained by a special election. The levy by the county court is, of course, at the rate set by the voters of the county. To note Senate Bill No. 286 again, it provides that "such taxing authorities shall immediately revise and lower the rates of levy." The phrase "such taxing authorities" refers to the "bodies legally authorized to make levies," in this case the county court so authorized by the special election for the establishment of a county health center.

CONCLUSION

It is, therefore, our opinion that Senate Bill No. 286 requires the lowering of the levy voted for the establishment and operation of a county health center and that the proper body to lower the levy is the county court.

Yours very truly,

WLaB:smw

John M. Dalton
Attorney General