

TAXATION (CIGARETTE TAX):
CIGARETTE TAX:
CONSTITUTIONAL LAW:

House Committee Substitute for Senate
Substitute for Senate Bills Nos. 1,
185 and 215 of the 75th General As-
sembly is not unconstitutional in
violation of Article III, Section
23, Missouri Constitution.

OPINION NO. 42

January 14, 1970

Honorable J. J. Schorgl
State Representative
District No. 9
126 North Quincy
Kansas City, Missouri 64123



Dear Representative Schorgl:

This is in reply to your request for an official opinion of
this office which request reads as follows:

"Would you please give me your opinion as to
whether or not House Committee Substitute for
Senate Substitute for Senate Bills Nos. 1, 185
and 215 is constitutional pursuant to Article
III, Section 23 of the Missouri Constitution."

Article III, Section 23, Missouri Constitution, reads as
follows:

"No bill shall contain more than one subject
which shall be clearly expressed in its title,
except bills enacted under the third exception
in section 37 of this article and general ap-
propriation bills, which may embrace the var-
ious subjects and accounts for which moneys
are appropriated."

"Title" as used in this constitutional provision means the
designation prefixed to an act of the Legislature which defines the
character of legislation. State on Inf. of Wallach v. Beckman, 353
Mo. 1015, 185 S.W.2d 810.

The "title" of House Committee Substitute for Senate Substitute
for Senate Bills Nos. 1, 185 and 215 of the 75th General Assembly
reads as follows:

"To repeal sections 149.010, 149.020, 149.030,
163.036, 163.131, 163.141, 163.161, RSMo Supp.

Honorable J. J. Schorgl

1967, and sections 163.031 and 163.033, Laws of Missouri, first extra session, pages 881-883, 1967, relating to certain taxes allocated for school purposes and state aid to school districts, and to enact in lieu thereof seven new sections, relating to the same subject, with an emergency clause and an effective date."

Chapter 149, RSMo, is the Missouri cigarette tax law. Section 149.010 is the definition section; Section 149.020 imposes the tax; and Section 149.030 provides for cigarette tax stamps.

Chapter 163, RSMo, provides for state aid to school districts, such aid to be distributed under certain conditions and according to certain formulas. Section 163.036 provides for estimates of average daily attendance; Section 163.131 provides for special aid to school districts with certain numbers of orphans or dependent children; Section 163.141 requires reports from each district entitled to aid to the state board of education; Section 163.161 provides for state aid for transportation of pupils in school districts; Section 163.031 provides for an equalization quota; and Section 163.033 provides for a second level equalization quota.

The question is whether the title of the act contains more than one subject which is expressed in its title.

The purpose of the constitutional provision is to limit the subject matter of a bill to one general subject and to afford reasonable definite information to the members of the general assembly and the people as to the subject matter dealt with by the bill. *State ex rel. Taylor v. Wade*, 360 Mo. 895, 231 S.W.2d 179. It is also said that the purpose of the constitutional provision is to prevent incongruous disconnected matters which have no relation to each other from being joined in one bill, but such provision does not prevent the joinder of all matters that are germane to the principal subject, and have a natural connection with it. *State v. Brodnax*, 228 Mo. 25, 128 S.W. 177, affirmed *Brodnax v. State of Missouri*, 291 U.S. 285, 31 S.Ct. 238, 55 L.Ed. 219. See also *State ex rel. Niedermeyer v. Hackmann*, 292 Mo. 27, 237 S.W. 742, where it is said that the constitutional provision does not prevent the inclusion in one bill, under one general title, of subjects naturally and reasonably related to each other.

This constitutional provision though mandatory, must be given a reasonable construction. *State on Inf. of Wallach v. Beckman*, 353 Mo. 1015, 185 S.W.2d 810. The provision is to be wisely and liberally interpreted and not to be so applied as to thwart the efficiency of intelligent and salutary legislation. It does not

Honorable J. J. Schorgl

forbid the inclusion in one bill, under one general title, of subjects naturally and reasonably related to each other. *Burge v. Wabash R. Co.*, 244 Mo. 76, 148 S.W. 925. Also, when all the provisions of the statute fairly relate to the same subject, have a natural connection with it, are the incident or the means accomplishing it, then the subject is single. *Ewing v. Hoblitzelle*, 85 Mo. 64.

In a case concerning a sales tax act, it was said that the constitutional provision does not require that every separate tax or every separate legislative thought be in a different bill, and it is sufficient if the matters in the statute are germane to the general subject therein. *State ex rel. Transport Mfg. and Equipment Co. v. Bates*, 359 Mo. 1002, 224 S.W.2d 996. And, in *State ex rel. Bier v. Bigger*, 352 Mo. 502, 178 S.W.2d 347, it was said that an act entitled as relating to the administration of estates was not objectionable as containing more than one subject although it related to administration, proof of wills and limitations thereon, and inheritance taxes.

See also *Rauch v. Himmelberger*, 305 Mo. 70, 264 S.W. 658, and *State ex rel. Clark v. Gordon*, 261 Mo. 631, 170 S.W. 892.

Pursuant to these rules the question, therefore, is whether the provisions of the cigarette tax fairly relate to the provisions concerning state aid to school districts.

Section 149.100, RSMo 1959, reads as follows:

"All taxes collected pursuant to this chapter shall be deposited in the state treasury to the credit of the state school moneys fund."

The state school moneys fund is used in part to carry out the purposes of Chapter 163. See Section 163.031, 163.061 and 163.081.

Therefore, interpreting the title of the act liberally, it is our opinion that the act does not violate Article III, Section 23, Missouri Constitution, because the cigarette tax law relates to the state aid to school districts law in that the tax money is used to accomplish the purposes of the state aid law. We think that the members of the general assembly and the public were afforded reasonable definite information as to the subject matter of the bill.

The various sections of the act have a natural connection and the tax sections are the means of accomplishing the state aid sections and to hold this act unconstitutional would thwart the efficiency of intelligent and salutary legislation.

Honorable J. J. Schorgl

CONCLUSION

Therefore, it is the opinion of this office that House Committee Substitute for Senate Substitute for Senate Bills Nos 1, 185 and 215 of the 75th General Assembly, providing for an increased state cigarette tax and amending statutes providing for state aid to school districts, is not unconstitutional in violation of Article III, Section 23, Missouri Constitution.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Walter W. Nowotny, Jr.

Yours very truly,



JOHN C. DANFORTH
Attorney General