

CITIES, TOWNS AND VILLAGES: A simple majority vote constitutes  
TAXATION (CITIES): authorization for a 20 cents tax  
levy for park purposes in a fourth  
class city, under 30,000 population, under the provisions of Section  
90.500, RSMo Supp. 1967, assuming, of course, that the 20 cents tax  
levy when combined with the general municipal tax levy does not ex-  
ceed the constitutional limit of \$1 required by Article X, Section  
11(b), Constitution of Missouri.

March 18, 1970

OPINION NO. 119

Honorable Harold Dickson  
State Representative  
District 121  
400 West Russell  
California, Missouri 65018



Dear Mr. Dickson:

This is in reply to your request for an official opinion of this office concerning the question whether a fourth class city, under 30,000 population, if approved by a simple majority of the voters, can levy and collect a 20 cents per \$100 assessed valuation tax to be used for park purposes under Section 90.500, providing that the constitutional limit set out in Article X, Section 11(b), Constitution of Missouri, of \$1 per \$100 assessed valuation is not exceeded.

Article X, Section 11(b), as stated in the question, does limit to municipalities, including fourth class cities, an annual tax rate of one dollar on the hundred dollars assessed valuation. The legislature has further limited the annual tax rate for fourth class cities to 75 cents per \$100 assessed valuation. Section 94.250, RSMo 1959. However, this 75 cent limit can be exceeded for special purposes, including 20 cents for park purposes as authorized by Section 90.500 to Section 90.570. Section 94.260(3), RSMo 1959.

You have stated that the present general tax levy of the city in question is 75 cents per \$100 assessed valuation. Therefore, the increase of 20 cents for park purposes would not exceed the constitutional limitation.

The 20 cents tax levy for park purposes is being proposed under the provisions of Section 90.500, RSMo Supp. 1967, which reads as follows:

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"When one hundred taxpaying voters of any incorporated city or town having less than thirty thousand inhabitants, or any city of the second or third class, shall petition the mayor and common council asking that an annual tax be levied for the establishment and maintenance of free public parks in the incorporated city or town, and providing for suitable entertainment therein, and shall specify in their petition a rate of taxation not to exceed forty cents per year on each one hundred dollars of assessed valuation, the mayor and common council shall direct the proper officer to give notice of the annual election or special election which may be called for the purpose of voting on the question on ballots in the following form:

'For a.....cent tax for public parks.'

"or

'Against a.....cent tax for public parks.'

"The tax specified in the notice shall be levied and collected in the same manner as other general taxes of the incorporated city or town and shall be known as the park fund. The taxes shall be within the constitutional limitation upon the power of any city to levy taxes and shall cease in case the legal voters of such incorporated city or town shall so determine, by a majority vote at any annual election held therein."

The question, then, is whether a simple majority vote is sufficient to impose this tax.

You have made reference to the municipal park tax authorized by Section 64.755, RSMo Supp. 1967, which specially requires a two-thirds majority for passage.

Section 90.500 does not specifically state what vote is necessary for passage, but does require only a simple majority for repeal.

Enclosed is a copy of Attorney General Opinion No. 143, June 12, 1969, Vanlandingham, which discusses the relationship of Section 90.500 and Section 64.755. That opinion held that the tax provided for by Section 64.755 is one authorized by Article X, Section 11(c), Constitution of Missouri, in excess of the constitutional limit of \$1. It is suggested that the reason for the two-thirds vote is because the tax authorized by Section 64.755 can be above the constitutional limit of \$1.

However, the tax authorized by Section 90.500 must be within the constitutional limit.

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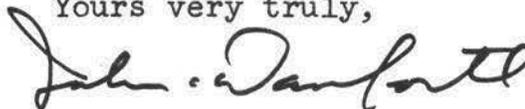
Therefore, in absence of any express provision to the contrary, it is our opinion that the vote required to pass a measure such as the one authorized in Section 90.500 is a simple majority.

CONCLUSION

It is the opinion of this office that a simple majority vote constitutes authorization for a 20 cents tax levy for park purposes in a fourth class city, under 30,000 population, under the provisions of Section 90.500, RSMo Supp. 1967, assuming, of course, that the 20 cents tax levy when combined with the general municipal tax levy does not exceed the constitutional limit of \$1 required by Article X, Section 11(b), Constitution of Missouri.

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

Yours very truly,



JOHN C. DANFORTH  
Attorney General

Encls:

OP.143-69-Vanlandingham