

TOWNSHIP BOARDS: Township boards will be required to comply with the provisions of Section 8821, R. S. Mo. 1939, in fixing their maximum levy of tax for road and bridge purposes in the year 1945.

April 25, 1945



Honorable Emmett L. Bartram
Representative, Nodaway County
House Post Office
Jefferson City, Missouri

Dear Mr. Bartram:

Reference is made to your letter dated April 24, 1945, requesting an official opinion of this office, and reading as follows:

"When I was home last week-end, the County Court of Nodaway County called me in for a conference in regard to Section 12 on Page 59 of the proposed New Constitution, also Section 11 on the preceding page, which they had written you about for an opinion a few weeks ago.

"The various township boards of our county, as our county has township organization, are making inquiry of them if they can run a thirty-five cent levy this summer for the collections of this year's taxes. They are now running a levy of twenty-five cents as provided in Section 8821, R. S. Mo., 1939.

"Your opinion explained these sections to them in part, but you did not give them an opinion on the question I have stated above. I told them I would take it up with you and if possible, have you give them an opinion on this point at your earliest convenience. If you desire, I will be glad to come over and discuss the matter with you."

April 25, 1945

Section 8821, R. S. Mo. 1939, to which you have referred in your letter, reads, in part, as follows:

"The township board of directors of any township may, * * * levy an annual tax in addition to those now authorized by law, in any amount not exceeding twenty-five cents on each one hundred dollars valuation on all property subject to taxation in such township, to be known as a special road and bridge fund: * * * "

Section 12 of Article X of the Constitution of 1945 reads, in part, as follows:

" * * * the township board of directors in the counties under township organization, * * * may levy an additional tax, not exceeding thirty-five cents on each hundred dollars assessed valuation, all of such tax to be collected and turned in to the county treasury to be used for road and bridge purposes. * * * "

Upon comparison of these laws dealing with the same subject matter, it becomes apparent that a conflict exists with respect to the maximum levy which may be made by the township board of directors for the collection of a special road and bridge tax. In the premises, Section 2 of the Schedule appended to the Constitution of 1945, we think, becomes controlling. We quote, in part, from said Section 2:

" * * * All laws inconsistent with this Constitution, unless sooner repealed or amended to conform with this Constitution, shall remain in full force and effect until July 1, 1946."

April 25, 1945

CONCLUSION

We, therefore, are of the opinion that in view of the conflict existing between the present statute relating to the maximum levy that can be made by township boards of directors for special road and bridge tax and the corresponding section of the Constitution of 1945, that the present existing statute imposing a limitation of twenty-five cents per one hundred dollars valuation will remain in full force and effect until July 1, 1946, unless sooner repealed or amended by the General Assembly; and that consequently, in fixing the maximum levy in 1945, the township boards of directors should not exceed the limitation found in Section 8821, R. S. Mo. 1939, in the absence of such amendatory or repealing action by the General Assembly.

Respectfully submitted,

WILL F. BERRY, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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