

TAXATION: The provisions of House Committee Substitute for House Bill 784, passed by the 63rd General Assembly and approved by the Governor, does not take away from the special road district the money now in the treasury of such road district, and require it to be paid into the county treasury.

May 17, 1946



Honorable Cecil T. Taylor
House of Representatives
State Capitol Building
Jefferson City, Missouri

Dear Mr. Taylor:

This will acknowledge receipt of your letter of recent date, requesting an opinion of this department, as follows:

"May I have your official opinion on the following question:

"Does House Bill No. 784, recently enacted by the Legislature, take away from special road districts the money now in the treasury of such road districts and require it to be paid into the county treasury?"

Section 8527, page 2, of House Committee Substitute for House Bill 784, provides that the county court in counties not adopting an alternative form of government and the proper administrative body in counties adopting an alternative form of government, "in their discretion may levy an additional tax". Section 8529, page 3, of House Committee Substitute for House Bill 784, provides for the election for the purpose of voting the additional tax levy. Section 8531, page 4, of House Committee Substitute for House Bill 784, provides that if a majority of the qualified voters voting at such election shall have voted for such additional tax, it shall be the duty of the county court to make the levy.

From the above provisions of House Committee Substitute for House Bill 784, it is clear that the bill provides for a future tax. None of the provisions of the bill refer to any tax other than this special additional tax which will have to be voted upon by the people and levied by the county court before any money could be collected under the provisions of this bill.

Section 8527, page 2, lines eleven to twenty-two, provides as follows:

"* * * other purpose whatever; provided, however, that all that part or portion of

said tax which shall arise from and be collected and paid upon any property lying and being within any special road district shall be paid into the county treasury and four-fifths of such part or portion of said tax so arising from and collected and paid upon any property lying and being within any such special road district shall be placed to the credit of such special road district from which it arose and shall be paid out to such special road district upon warrants of the county court, in favor of the commissioners or treasurer of the district as the case may be; Provided further, that the part of said special road * * *." (Underscoring ours)

In line twelve of Section 8527, on page 2 of the bill the words "said tax" appear. The "said tax" could, we think, refer to no other tax except the additional tax provided for in the prior portion of Section 8527. The proviso, above quoted, requires that the additional tax, provided for in this section, shall be paid into the county treasury. Since the provision for paying the tax into the county treasury is applicable only to the "said tax", and the "said tax" refers to the special additional levy provided for in House Committee Substitute for House Bill 784, which tax could not be collected until it was voted and levied under the provisions of the bill, we are of the opinion that House Committee Substitute for House Bill 784 does not affect any money which has been collected by reason of a former tax levy.

CONCLUSION

It is, therefore, the opinion of this department that House Committee Substitute for House Bill 784, does not take away from the special road district the money now in the treasury of such road district, and require it to be paid into the county treasury.

Respectfully submitted,

SMITH N. CROWE, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

SNC:dc