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OPINION LETTER NO. 164

Honorable Frank Bild
State Senator, 15th District
7 Meppen Court
St. Louis, Missouri 63128

Dear Senator Bild:

This letter is in response to your question asking:

"If the voters of a fire protection district have already approved a proposition to provide emergency ambulance service within its district, and to levy a tax not to exceed five cents on the one hundred dollars assessed valuation to be used exclusively to supply funds for the operation of an emergency ambulance service, as provided in Section 321.255 RSMo, 1969, may such a fire protection district be authorized to increase the tax levy, not to exceed fifteen cents on the one hundred dollar assessed valuation, without further approval of the voters, as provided in SCS HS HB 216 and passed by the 79th General Assembly, 1977?"

Section 321.225, SCSHSB No. 216, 79th General Assembly, as amended and effective September 28, 1977, provides:

"1. A fire protection district may, in addition to its other powers and duties, provide emergency ambulance service within

Senator Frank Bild

its district if a majority of the voters voting thereon approve a proposition to furnish such service and to levy a tax not to exceed fifteen cents on the one hundred dollars assessed valuation to be used exclusively to supply funds for the operation of an emergency ambulance service. The district shall exercise the same powers and duties in operating an emergency ambulance service as it does in operating its fire protection service.

"2. The proposition to furnish emergency ambulance service may be submitted by the board of directors at the next annual election of the members of the board or at a special election called for the purpose, or upon petition by five hundred duly qualified electors of such district. A separate ballot containing the question shall read as follows:

Shall the board of directors of
Fire Protection District be authorized to provide emergency ambulance service within the district and be authorized to levy a tax not to exceed fifteen cents on the one hundred dollars assessed valuation to provide funds for such services?

- For emergency ambulance service and the levy
- Against emergency ambulance service and the levy

(Place an X in the square opposite the one for which you wish to vote.)

If a majority of the qualified voters casting votes thereon be in favor of emergency ambulance service and the levy, the district shall forthwith commence such service.

"3. As used in this section 'emergency' means a situation resulting from a sudden or unforeseen situation or occurrence that requires immediate action to save life or prevent suffering or disability."

Senator Frank Bild

The only change the legislature made in this section was to raise the maximum levy, which the voters can authorize, from five cents to fifteen cents. This required changes in the first paragraph with respect to the authorization to make the levy, and also in the second paragraph with respect to the proposition to be voted on by the voters.

We find no case authority in Missouri which is directly in point. However, there are several rules of construction which must be taken into consideration. Statutes which are not ambiguous do not require interpretation. However, if interpretation is required the legislative intent must be determined and if at all possible the statutes must be given prospective operation. See V.A.M.S. Construction of Statutes, Chapter 1. We believe that the statute is unambiguous, clearly reflects the legislative intent and is prospective in operation.

We think that it is beyond doubt that if the voters have authorized a tax levy not to exceed five cents on the one hundred dollars assessed valuation the five cent maximum limitation remains until the voters raise such limitation to the amount authorized by amended Section 321.225. Therefore, if it is desired to raise the maximum pursuant to the amended section, the question must be submitted to the voters for their approval.

Very truly yours,



JOHN ASHCROFT
Attorney General