

Y3 2185  
36  
H-230



WORKS PROGRESS ADMINISTRATION  
HARRY L. HOPKINS, ADMINISTRATOR

CORRINGTON GILL  
ASSISTANT ADMINISTRATOR

HOWARD B. MYERS, DIRECTOR  
SOCIAL RESEARCH DIVISION

LIBRARY  
UNIVERSITY of KENTUCKY

ANALYSIS OF CONSTITUTIONAL PROVISIONS  
AFFECTING PUBLIC WELFARE IN THE STATE OF  
MISSOURI

OCTOBER 1, 1936

PREPARED BY  
ROBERT C. LOWE AND DAVID S. LANDER  
LEGAL RESEARCH SECTION

UNDER THE SUPERVISION OF  
A. ROSS ECKLER, COORDINATOR OF SPECIAL INQUIRIES  
DIVISION OF SOCIAL RESEARCH

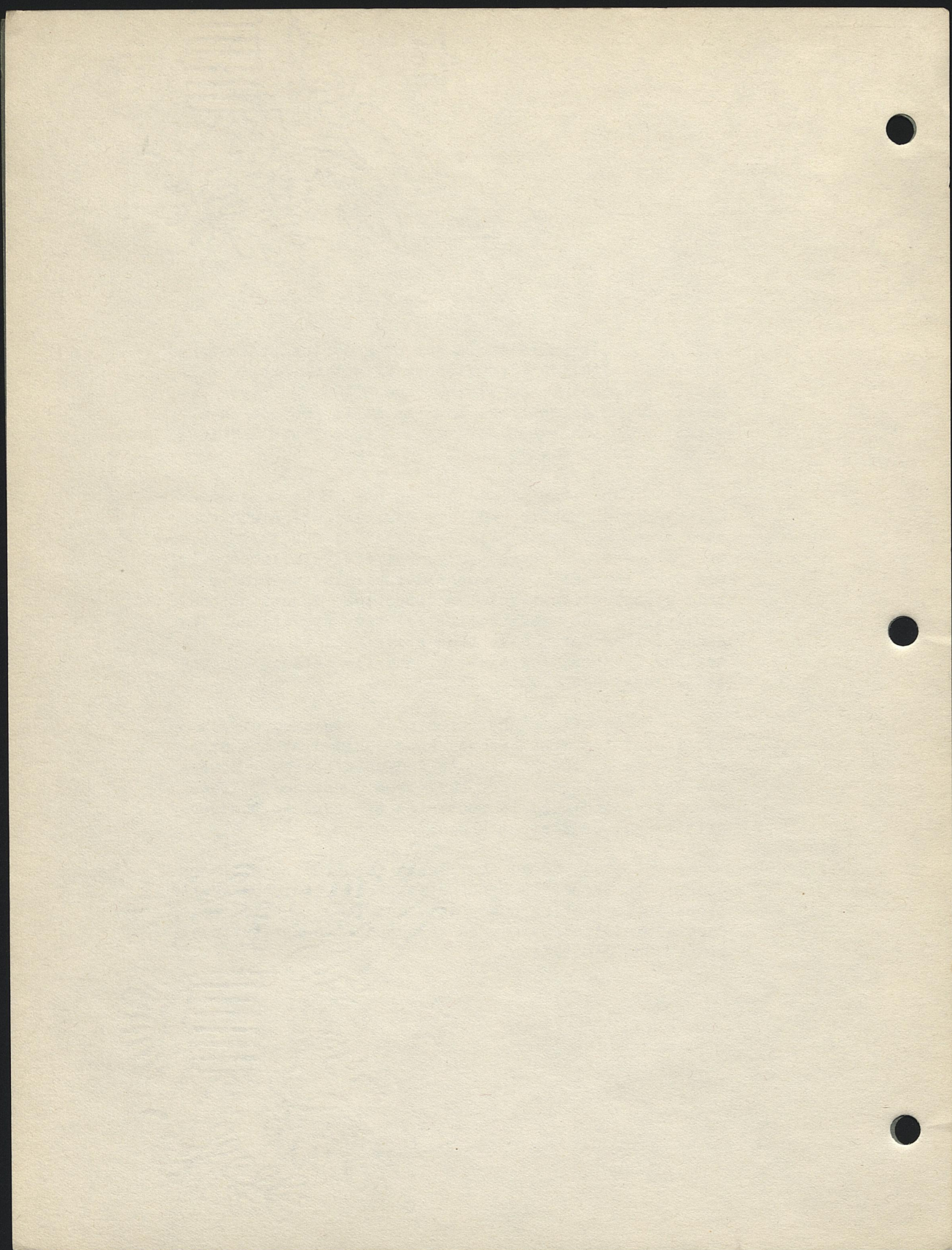
## Preface

This bulletin is one of a series presenting State constitutional provisions affecting public welfare, prepared to supplement the State by State digests of public welfare laws so as to provide in abstract form the basis for the public welfare services of the several States.

The provisions quoted are those concerned directly with public welfare administration and such others as may substantially affect a public welfare program, even though only indirectly related. It would be impossible to consider within the limits of this study every remotely connected constitutional provision. The indirectly related provisions included, therefore, have been restricted to those concerning finance, legislation, and the methods of constitutional amendment.

An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

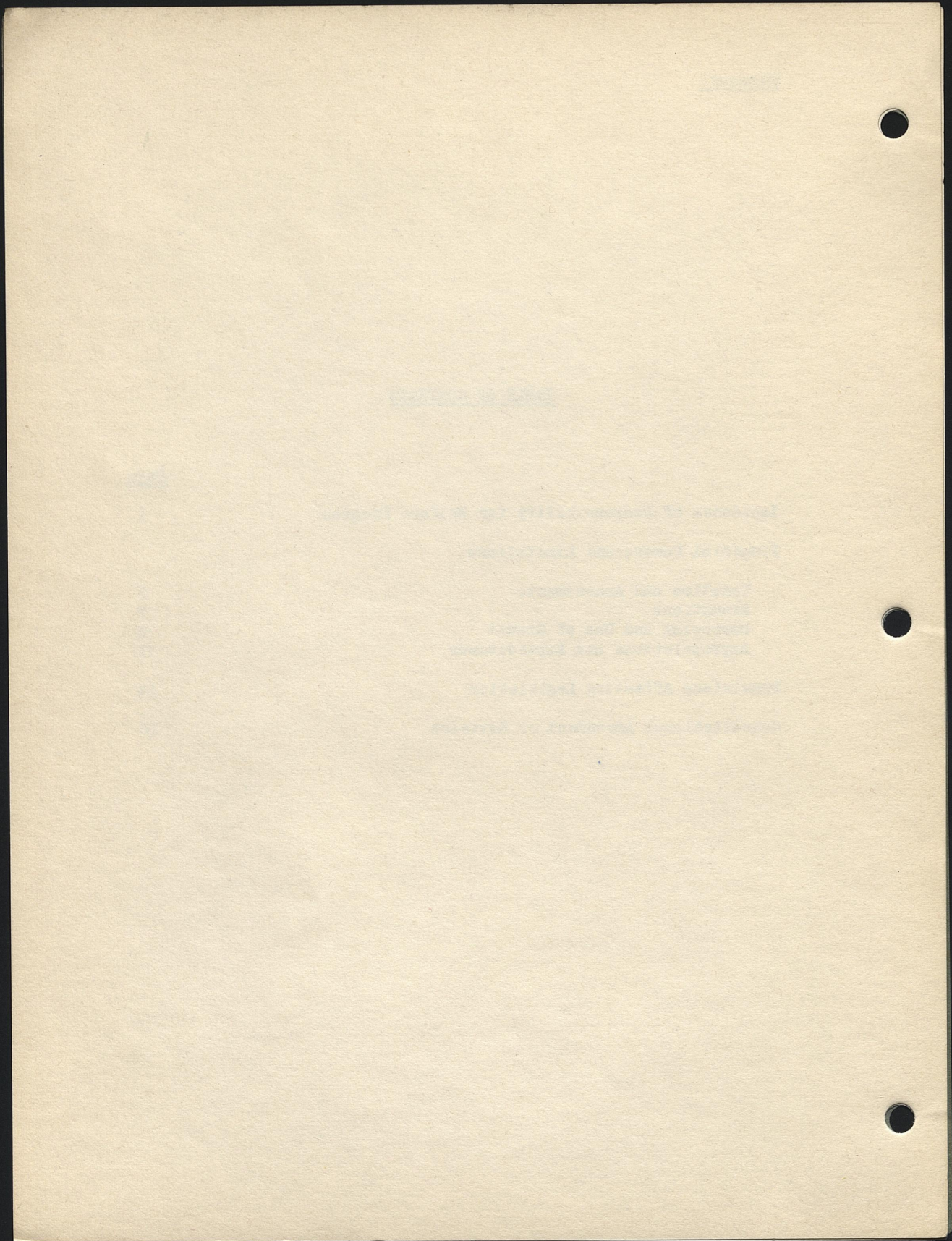
It is hoped that these abstracts will be useful to those interested in public welfare questions in indicating how State and local public welfare administration may be affected by constitutional powers and limitations.



Missouri

TABLE OF CONTENTS

	<u>Page</u>
Incidence of Responsibility for Welfare Program	1
Financial Powers and Limitations	
Taxation and Assessments	3
Exemptions	7
Borrowing and Use of Credit	8
Appropriations and Expenditures	11
Provisions Affecting Legislation	14
Constitutional Amendment or Revision	16



ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING

PUBLIC WELFARE IN MISSOURI 1/

I. Incidence of Responsibility for Welfare Program

A. The General Assembly shall have no power to authorize any county, city, town or township, . . . to lend its credit, or to grant public money or thing of value in aid of or to any individual, association or corporation whatsoever, . . . 2/

B. Provided, that this shall not be so construed as to prohibit the General Assembly from providing by law for authorizing the creation, maintenance and management of a fund for the pensioning of crippled and disabled firemen, and for the relief of the widows

- 
1. Constitution (1875), with all amendments to April 1, 1936; and proposed amendments to be voted upon November, 1936.
  2. Constitution, Art. IV, Sec. 47. See also Constitution, Art. IV, Sec. 46; see page 9, Section II, paragraph C, (1), (d).

County poor relief bonds, of an amount within the Constitutional debt limit, to be used for relief of unemployed poor of the county held to be a legitimate use of the borrowing power of the county because the bonds were for a "county public purpose" rather than a grant to any individual. The court did not mention this section of the Constitution in its opinion, but the effect of the decision is that the issuance of such bonds is not prohibited by any section of the Constitution. State ex rel. Gilpin vs. Smith, - Mo. -, 96 S. W. (2d) 40 (1936). See page 10, footnote 20.

Likewise the City of St. Louis was held authorized to levy taxes and to borrow money to provide relief for unemployed poor persons of the city because such relief is for a "municipal public purpose". Here again the court does not discuss this section of the Constitution, but holds borrowing and taxation for this purpose to be within the Constitutional powers of a city. Jennings vs. City of St. Louis, 332 Mo. 173, 58 S. W. (2d) 979 (1933). See page 3, footnote 7.

An Act, giving a bounty to persons planting prairie lands with forest trees is not for public use and is void. Deal vs. County, 107 Mo. 464, 18 S. W. 24 (1891).

But counties may be required to pay for poor children apprenticed to the reform school because this is for public use in caring for certain class of counties residents and not a grant to any individual. State ex rel. State Industrial Home for Girls vs. Pike County Court, 144 Mo. 275, 45 S. W. 1096 (1898).

An amendment to the Constitution provides that no person while kept in any poorhouse at public expense shall be entitled to vote. Constitution, Art. VIII, Sec. 2, adopted 1924.

2. Missouri

I. Incidence of Responsibility for Welfare Program (Cont'd)

and minor children of deceased firemen . . . said fund to be taken from the municipal revenue of such cities, villages or incorporated towns: 3/

C. Provided further, That nothing in this Constitution contained shall be construed as prohibiting the General Assembly from granting, or authorizing the granting of, pensions to the deserving blind, as may be provided and regulated by law. 4/

D. Provided further, that nothing in this Constitution contained shall be construed as prohibiting the General Assembly from granting or authorizing the granting of, pensions to persons over 70 years of age, who are incapacitated from earning a livelihood and are without means of support, as may be provided and regulated by law. 5/

E. The General Assembly shall have the power to provide by law, or to authorize any municipality in this State to provide by ordinance for the pensioning of members of any organized police force and the widows and minor children of deceased members thereof; and nothing in this Constitution contained shall prohibit, or be construed to prohibit, the exercise of such power or authority by the General Assembly. 6/

---

3. Constitution, Art. IV, Sec. 47, adopted 1892.

A proposed amendment to be voted upon by the people in November 1936 changes the wording but not the substance of this Proviso. 1935 Cumulated Supplement to the Revised Statutes of 1929, page 38.

4. Constitution, Art. IV, Sec. 47, adopted 1916.

For a tax for this purpose see page 4, Sec. 11, par. A, (1), (d) of this analysis.

The Legislature has authority to define "deserving blind" to determine what persons shall be entitled to pensions and by what tests their vision shall be determined. Shelley vs. Missouri Commission for the Blind, 309 Mo. 612, 274 S. W. 688 (1925).

5. Constitution, Art. IV, Sec. 47, adopted 1932.

6. Constitution, Art. IV, Sec. 48a, adopted 1926.

This amendment was adopted subsequent to a decision holding a statute providing for pensions for St. Louis policemen to be unconstitutional under Art. IV, Sec. 47 of the Constitution. (See page 1, paragraph A.) State ex rel. Heaven vs. Ziegenhein, 144 Mo. 283, 45 S. W. 1099 (1898). See page 9, footnote 19.



II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State

(a) Taxes may be levied and collected for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws. 7/

(b) All property subject to taxation shall be taxed in proportion to its value: . . . 8/

---

7. Constitution, Art. X, Sec. 3.

The Legislature possesses the power to tax whether particularly specified in the Constitution or not. In reference to taxation, the Constitution is not so much to be regarded as a grant of power as a restriction or limitation of power. *Ludlow-Saylor Wire Company vs. Wollbrinck*, 275 Mo. 339, 205 S. W. 196 (1918).

The use of public funds for the relief of able-bodied persons whose inability to support themselves arises from the prevalence of widespread unemployment is a "public purpose" within the meaning of this section. *Jennings vs. City of St. Louis*, 332 Mo. 173, 58 S. W. (2d) 979 (1933). See page 1, footnote 2.

This section of the Constitution providing for uniformity of taxation applies only to direct taxes on property and not to excise, occupation and other forms of taxation. *State ex rel. McClung vs. Becker*, 288 Mo. 607, 233 S. W. 54 (1921).

A city ordinance providing that all merchants should pay an ad valorem tax on the highest amount of merchandise carried between certain dates before they could obtain a license to carry on business held not to violate this section. *City of Troy vs. Harris*, 102 Mo. A, 51, 76 S. W. 662 (1903).

A tax on the number of gallons of gasoline sold held not to violate this section. *Viguesney vs. Kansas City*, 305 Mo. 488, 266 S. W. 700 (1924).

8. Constitution, Art. X, Sec. 4.

This section applies alone to a property tax. *War vs. Board of Equalization*, 135 Mo. 309, 36 S. W. 648 (1896).

This section does not apply to income taxes and a statute providing for graduated progressive rate of income tax held not to violate this or other constitutional provisions because it has been uniformly held in Missouri that a tax on income is not a tax on property. This section together with sections 3 and 8, quoted herein, are intended to apply only to direct taxes on property. *Bacon vs. Ransom*, 331 Mo. 985, 56 S. W. (2d) 786 (1932). Also *Ludlow-Saylor Wire Company vs. Wollbrinck*, 275 Mo. 339, 205 S. W. 196 (1918).

(Footnote forwarded)

4. Missouri

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(c) The state tax on property, exclusive of the tax necessary to pay the bonded debt of the state, shall not exceed twenty cents on the hundred dollars valuation; and whenever the taxable property of the State shall amount to nine hundred million dollars, the rate shall not exceed fifteen cents. 9/

(d) Provided further; That the General Assembly of the State of Missouri shall cause an annual tax of not less than one-half of one cent nor more than three cents on the one hundred dollars valuation of the taxable property of the State to be levied for the purpose of providing a fund to be devoted in the manner provided by law to the pensioning of the deserving blind . . . 10/

(e) All railroad corporations in this State, or doing business therein, shall be subject to taxation for State, county, school, municipal and other purposes, on the real and personal property owned or used by them, and on their gross earnings, their net earnings, their franchises and their capital stock. 11/

(2) Counties

(a) Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; . . . For county purposes the annual rate on property, in counties having six million dollars or less, shall not, in the aggregate, exceed

(Footnote #8 - Continued)

The inheritance tax law of 1917 does not contravene this or other sections of the Constitution because an inheritance tax is not a tax on property but rather a duty imposed on the transmission of property. State ex rel. McClintock vs. Guinotte, 275 Mo. 298, 204 S. W. 806 (1918).

A statute passed in 1935 imposing a one percent tax upon every retail sale of tangible personal property, the proceeds to be used for relief and old age pensions among other things, held an excise not a property tax and constitutional. State ex rel. Missouri Portland Cement Co. vs. Smith, - Mo. -, 90 S. W. (2d) 405 (1936).

A corporation franchise tax graduated in relation to the par value of the outstanding stock of each corporation, held not a property tax and hence not violative of this or other constitutional provisions. State vs. Freehold Investment Company, 305 Mo. 88, 264 S. W. 702 (1924).

9. Constitution, Art. X, Sec. 8.

See footnote 8 for cases which apply to this section,

10. Constitution, Art. IV, Sec. 47.

11. Constitution, Art. X, Sec. 5.

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(2) Counties (Cont'd)

fifty cents on the hundred dollars valuation; in counties having six million dollars and under ten million dollars, said rate shall not exceed forty cents on the hundred dollars valuation; in counties having ten million dollars and under thirty million dollars, said rate shall not exceed fifty cents on the hundred dollars valuation; and in counties having thirty million dollars or more, said rate shall not exceed thirty-five cents on the hundred dollars valuation. . . For the purpose of erecting public buildings in counties, cities or school districts, the rate of taxation herein limited may be increased when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people, and two-thirds of the qualified voters of such county, city or school district, voting at such election, shall vote therefor. The rate herein allowed to each county shall be ascertained by the amount of taxable property therein, according to the last assessment for State and county purposes, . . . said restrictions as to rates shall apply to taxes of every kind and description, whether general or special, except taxes to pay valid indebtedness now existing, or bonds which may be issued in renewal of such indebtedness. . .<sup>12/</sup>

(3) Other Local Units

(a) Taxes for county, city, town and school purposes may be levied on all subjects and objects of taxation; . . . For city and town purposes the annual rate on property in cities and towns having thirty thousand inhabitants or more shall not, in the aggregate, exceed one hundred cents on the one hundred dollars valuation; in cities and towns having less than thirty thousand and over ten thousand inhabitants, said rate shall not exceed sixty cents on the hundred dollars valuation; in cities and towns having less than ten thousand and more than one thousand inhabitants, said rate shall not exceed fifty cents on the hundred dollars valuation; and in towns having one thousand inhabitants, or less, said rate shall not exceed twenty-five cents on the hundred dollars valuation . . . and the rate allowed to each city or town (shall be ascertained) by the number of inhabitants, according to the last census taken under the authority

---

12. Constitution, Art. X, Sec. 11.

In addition to the taxes authorized to be levied for county purposes by this section special taxes may be levied for road and bridge purposes. Constitution, Art. X, Sec. 22 and 23.

6. Missouri

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(3) Other Local Units (Cont'd)

of the State, or of the United States; . . . Provided, that the City of St. Louis may levy for municipal purposes, in addition to the municipal rate of taxation above provided, a rate not exceeding the rate which would be allowed for county purposes if said city were part of a county. 13/

B. Exemptions

(1) State, county and other Local Units

(a) The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also such property,

---

13. Constitution, Art. X, Sec. 11.

The limitations set forth in this section apply only to taxation for current expenses, and where taxes are levied to pay principal and interest on indebtedness incurred in accordance with Art. X, Sec. 12, such taxes may be in excess of the rates set forth in this section. *Lamar Water and Electric Light Company vs. City of Lamar*, 128 Mo. 188, 31 S. W. 756 (1895). See page 10, footnote 21.

This case cited with approval. *School District vs. Day*, 328 Mo. 1105, 43 S. W. (2d) 428 (1931).

Certain additional taxes may be levied for school purposes and for the erection of public buildings. *Ibid.*

*City of St. Louis* held empowered to levy taxes to provide food, clothing and shelter for its poor; poor relief being "municipal purpose". *Jennings vs. City of St. Louis*, 332 Mo. 173, 58 S. W. (2d) 979 (1933). See page 3, footnote 7.

The constitutional limitation on tax rates for municipal purposes is self-enforcing and applies to every kind of tax, whether general or special, except as provided by the Constitution itself. *State ex rel. Emerson vs. City of Mound City*, 335 Mo. 702, 73 S. W. (2d) 1017 (1934).

II. Financial Powers and Limitations (Cont'd)

B. Exemptions (Cont'd)

(1) State, county and other Local Units (Cont'd)

real or personal, as may be used exclusively for agricultural or horticultural societies: Provided, That such exemptions shall be only by general law. 14/

(b) All laws exempting property from taxation, other than the property above enumerated, shall be void. 15/

---

14. Constitution, Art. X, Sec. 6.

Tax exemptions should be construed strictly and confined to the subject specified, including such as are necessarily within the contemplation of the legislation creating the exemption. State ex rel. St. Louis Y. M. C. A. vs. Gehner, 320 Mo. 1172, 11 S. W. (2d) 30 (1928).

The Legislature cannot exempt property from taxation by declaring that such property, for the purpose of taxation, shall be deemed State property, when in fact it is not State property and toll bridges held by trustees for the use of the State are not State property. State ex rel. Jones vs. Brown, - Mo. -, 92 S. W. (2d) 718 (1936).

Masonic Lodge, where part of building is rented, is not exempt. Fitterer vs. Crawford, 157 Mo. 51, 57 S. W. 532 (1900).

Premises used as the residence for the bishops of a church are exempt. Bishops vs. Hudson, 91 Mo. 671, 4 S. W. 435 (1887).

A school building used in part for other purposes, the proceeds being used for education, is exempt. Society vs. Hudson, 12 Mo. App. 342, (1882).

But property leased to a public school district, upon which a school house is erected and the school maintained, is not exempt from taxation, where the owner of the property receives the rental. State vs. Macgurn, 187 Mo. 238, 86 S. W. 138 (1905).

Property of a business corporation organized for profit and also to encourage agricultural and horticultural pursuits is not exempt. Park vs. Kansas City, 174 Mo. 425, 74 S. W. 979 (1903).

15. Constitution, Art. X, Sec. 7.

The Legislature cannot increase the list of tax exemptions. State ex rel. Tompkins vs. Shipman, 290 Mo. 65, 234 S. W. 60 (1921).

II. Financial Powers and Limitations (Cont'd)C. Borrowing and Use of Credit(1) State

(a) The General Assembly shall have no power to contract or to authorize the contracting of any debt or liability on behalf of the State, or to issue bonds or other evidences of indebtedness thereof, except in the following cases:

First, In the renewal of existing bonds, when they cannot be paid at maturity, out of the sinking fund or other resources.

Second, On the occurring of an unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred, upon the recommendation of the Governor first had, shall not exceed the sum of two hundred and fifty thousand dollars for any one year, to be paid in not more than two years from and after its creation.

Third, On the occurring of any unforeseen emergency, or casual deficiency of the revenue, when the temporary liability incurred or to be incurred shall exceed the sum of two hundred and fifty thousand dollars for any one year, the General Assembly may submit an act providing for the loan, or for the contracting of the liability, and containing a provision for the levying of a tax sufficient to pay the interest and principal when they become due (the latter in not more than thirteen years from the date of its creation), to the qualified voters of the State, and when the act so submitted shall have been ratified by a two-thirds majority, at an election held for that purpose, . . . the act thus ratified shall be irrevocable until the debt thereby incurred shall be paid, principal and interest. 16/

---

16. Constitution, Art. IV, Sec. 44.

A fourth proviso to this section adopted as an amendment in 1920 provides for the issuance of \$1,000,000 in bonds for the purpose of a soldiers settlement fund. Ibid.

An additional section provides for the borrowing of \$135,000,000 for highway purposes. Constitution, Art. IV, Sec. 44a adopted 1928.

Further sections provide for the issuance of \$15,000,000 and \$4,600,000 respectively in bonds for a soldiers bonus. Constitution, Art. IV, Sec. 44b, adopted 1921; Art. IV, Sec. 44c adopted 1924.

The burning of the State Capitol is an "unforeseen emergency" within the meaning of this section. Church vs. Hadley, 240 Mo. 680, 145 S. W. 8 (1912).

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(1) State (Cont'd)

(b) . . . the General Assembly shall have the power to contract or to authorize the contracting of a debt or liability on behalf of the State and to issue bonds or other evidences of indebtedness therefor, not exceeding in the aggregate Ten Million Dollars (\$10,000,000), for the purpose of repairing, remodeling or rebuilding, . . . State buildings and properties at all or any of the eleemosynary or penal institutions of this State, for building additions thereto and additional buildings where necessary; such bonds to bear interest at a rate not exceeding five per centum (5%) per annum, payable semi-annually, and maturing not later than thirty-five (35) years from their date. . . 17/

(c) The General Assembly shall have no power to give or to lend, or to authorize the giving or lending of the credit of the State in aid of or to any person, association or corporation, whether municipal or other, or to pledge the credit of the State in any manner whatsoever, for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever: . . . 18/

(d) The General Assembly shall have no power to make any grant, or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: Provided, That this shall not be so construed as to prevent the grant of aid in a case of public calamity. 19/

(2) Counties

No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such

---

17. Constitution, Art. IV, Sec. 44d, adopted 1934.

18. Constitution, Art. IV, Sec. 45.

19. Constitution, Art. IV, Sec. 46.

A statute granting pensions to policemen is invalid under this section as being a grant-in-aid to an individual. State ex rel. Prairie Township vs. Walker, 85 Mo. 41 (1884). See page 2, footnote 6.

10. Missouri

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(2) Counties (Cont'd)

year, without the consent of two-thirds of the voters thereof voting on such proposition, at any election held for that purpose; nor in cases requiring such assent shall any indebtedness be allowed to be incurred to an amount including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, . . . provided, That with such assent any county may be allowed to become indebted to a larger amount for the erection of courthouse or jail, or for the grading, construction, paving, or maintaining of paved, graveled, macadamized or rock roads and necessary bridges and culverts therein; and provided further, that any county, city, town, township, school district or other political corporation or subdivision of the State, incurring any indebtedness requiring the assent of the voters as aforesaid, shall before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal, thereof, within twenty years from the time of contracting the same:  
. . . 20/

(3) Other Local Units

. . . except that cities having a population of seventy-five thousand inhabitants or more may, with the assent of two-thirds of the voters thereof voting on such proposition at an election to be held for that purpose, incur an indebtedness not exceeding ten percentum on the value of the taxable property therein, . . . .21/

20. Constitution, Art. X, Sec. 12, adopted 1920.

County poor relief bonds of an amount within the constitutional debt limitation are for "county public purpose" within this section and within constitutional requirement that taxes can be levied and collected for public purposes only. State ex rel. Gilpin vs. Smith, - Mo. -, 96 S. W. (2d) 40 (1936). See page 1, footnote 2.

This section is self-enforcing and must be read into statute. Thomas vs. Buchanan County, 330 Mo. 627, 51 S. W. (2d) 95 (1932).

Constitutional requirement for annual tax to pay interest and provide sinking fund for bonds is mandatory and self-enforcing. State ex rel. Emerson vs. Allison, 334 Mo. 542, 66 S. W. (2d) 547 (1933).

See footnote 21 below.

21. Constitution, Art. X, Sec. 12.

See section (a) under "Counties" for general provisions of this section.

Under this same section special exceptions are enumerated for the City of St. Louis allowing it to borrow in excess of this (Footnote forwarded)



II. Financial Powers and Limitations (Cont'd)D. Appropriations and Expenditures(1) State

(a) All revenue collected and moneys received by the State from any source whatsoever shall go into the treasury, and the General Assembly shall have no power to divert the same, or to permit money to be drawn from the treasury, except in pursuance of

---

(Footnote #21 - Continued)

limit for the celebration of the Louisiana Purchase Centennial and for the construction of water works. Ibid.

A further provision of this section allows borrowing in excess of this limit by cities of 75,000 or more population for the construction or purchase of public utility plants, the interest and principal of the bonds issued to be paid out of the earnings of these plants. Ibid, adopted 1920.

Similarly a city of less than 30,000 inhabitants may exceed the borrowing limit for the purpose of construction or purchase of public utility plants. Constitution, Art. X, Sec. 12a, adopted 1920.

There is no corresponding provision for cities between 30,000 and 75,000 inhabitants.

A special section authorizes Kansas City to issue serial bonds maturing from three to forty years after issue for public improvements, provided that bonded indebtedness of the city shall not exceed the limits set forth in this section. Constitution, Art. XIV, Sec. 14, adopted 1924.

The limitations as to taxation set forth in Art. 10, Sec. 11 of the Constitution, apply only to taxation for current expenses, and where taxes are levied to pay principal and interest on indebtedness incurred in accordance with this section such taxes may be in excess of the rates set forth in Art. 12, Sec. 11. Lamar Water and Electric Light Company vs. City of Lamar, 128 Mo. 188, 31 S. W. 756 (1895), see page 6, footnote 13.

Sale of bonds by the City of Excelsior Springs, most of which were purchased by the Federal Emergency Relief Administrator of Public Works, to acquire and equip mineral water system for the public use, held not to have created a "debt" within the meaning of this section for the reason that the bonds were payable only from income derived from the property purchased. State ex rel. City of Excelsior Springs vs. Smith, 336 Mo. 1104, 82 S. W. (2d) 37 (1935).

An indebtedness of a city to be paid only from income derived from the property purchased is not a debt within the meaning of this section. Bell vs. City of Fayette, 325 Mo. 75, 28 S. W. (2d) 356 (1930).

Also bonds issued in drainage districts against special assessments are not indebtedness within the meaning of this section. State ex rel. Drainage Dist. No. 28 of New Madrid County vs. Thompson, 328 Mo. 728, 41 S. W. (2d) 941 (1931).

(Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

D. Appropriations and Expenditures (Cont'd)

(1) State (Cont'd)

regular appropriations made by law. All appropriations of money by the successive General Assemblies shall be made in the following order:

First, For the payment of all interest upon the bonded debt of the State that may become due during the term for which each General Assembly is elected.

Second, For the benefit of the sinking fund, which shall not be less annually than two hundred and fifty thousand dollars.

Third, For free public school purposes.

Fourth, For the payment of the cost of assessing and collecting the revenue.

Fifth, For the payment of the Civil list.

Sixth, For the support of the eleemosynary institutions of the State.

Seventh, For the pay of the General Assembly, and such other purposes not herein prohibited as it may deem necessary; but no General Assembly shall have power to make any appropriation of money for any purpose whatsoever, until the respective sums necessary for the purposes in this section specified have been set apart and appropriated, or to give priority in its action to a succeeding over a preceding item as above enumerated. 22/

---

(Footnote #21 - Continued)

Authorized bonds of a municipality may be issued serially and sold in installments, where bonds of each installment mature within twenty years from its date, regardless of whether some of the bonds are issued to mature more than twenty years from the dates of preceding installments. State ex rel. School Dist. of Kansas City vs. Thompson, 327 Mo. 144, 36 S. W. (2d) 109 (1931).  
22. Constitution, Art. IV, Sec. 43.

Another section provides that no money shall be paid out of the State Treasury, except in pursuance of an appropriation by law, nor unless a warrant for payment shall have issued within two years of passage of such appropriation act. Constitution, Art. X, Sec. 19.

(Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

D. Appropriations and Expenditures (Cont'd)

(1) State (Cont'd)

(b) The moneys arising from any loan, debt, or liability, contracted by the State, or any county, city, town, or municipal corporation, shall be applied to the purposes for which they were obtained, or to the repayment of such debt or liability, and not otherwise. 23/

(2) Counties

All moneys, stocks, bonds, lands and other property belonging to a county school fund, also the net proceeds from the sale of estrays, also the clear proceeds of all penalties and forfeitures, and of all fines collected in the several counties for any breach of the penal or military laws of the State, and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and be securely invested and sacredly preserved in the several counties as a county public school fund; . . . 24/

(3) Other Local Units

See Art. X, Sec. 20, paragraph (b) above.

---

(Footnote #22 - Continued)

A dictum of the Missouri Supreme Court states "that no appropriations of money find recognition in the Constitution except 'regular appropriations' and that such cannot be made except at regular legislative sessions, occurring biennially". State ex rel. Missouri State Board of Agriculture vs. Holladay, 64 Mo. 526 (1877).

However this dictum has not been followed for at the extra session beginning October 17, 1933 several appropriation bills were passed including one for relief. Laws of Missouri (1933, Extra Session).

The Legislature has power to appropriate money for the care of the indigent insane of the State while in a certain city hospital, though such hospital was not a State eleemosynary institution. State ex rel. City of St. Louis vs. Seibert, 123 Mo. 424, 24 S. W. 750 (1893).

23. Constitution, Art. X, Sec. 20.

Another section provides that the proceeds of certain funds such as escheats to the State shall be appropriated to public schools and the State University. Constitution, Art. XI, Sec. 5.

24. Constitution, Art. XI, Sec. 8.

III. Provisions Affecting Legislation

A. Regular Sessions of the Legislature

. . . The General Assembly shall meet in regular session once only in every two years; and such meeting shall be on the first Wednesday after the first day of January next after the election of the members thereof. 25/

B. Special Sessions of the Legislature

(1) . . . On extraordinary occasions he (the Governor) may convene the General Assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary. 26/

(2) The General Assembly shall have no power, when convened in extra session by the Governor, to act upon subjects other than those specially designated in the proclamation by which the session is called, or recommended by special message to its consideration by the Governor after it shall have been convened. 27/

C. Powers of Initiative and Referendum

The legislative authority of the State shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the Constitution, and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the initiative, and not more than eight percent of the legal voters in each of at least two-thirds of the Congressional districts in the State shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. . . The second power is the referendum,

---

25. Constitution, Art. IV, Sec. 20.

26. Constitution, Art. V, Sec. 9.

27. Constitution, Art. IV, Sec. 55.

Statute enacted in extra session of General Assembly to amend Library Act held unconstitutional, where neither proclamation calling extra session nor Governor's special message mentioned such act. State ex rel. Carpenter vs. City of St. Louis, 318 Mo. 870, 2 S. W. (2d) 713 (1928).

Under this section the Legislature in extra session may enact any laws which the Governor may by special message recommend after the Legislature has met though Constitution, Art. V, Sec. 9, requires the Governor in his message to state specifically each matter on which he deems it necessary for the Legislature to act. State vs. Rawlings, 232 Mo. 544, 134 S. W. 530 (1911).

III. Provisions Affecting Legislation (Cont'd)

C. Powers of Initiative and Referendum (Cont'd)

and may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety and laws making appropriations for the current expenses of the State Government, for the maintenance of the State Institutions and for the support of the public schools) either by the petitions signed by five per cent. of the legal voters in each of at least two-thirds of the Congressional districts in the State, or by the legislative assembly, as other laws are enacted. . . The veto power of the Governor shall not extend to measures referred to the people. 28/

D. Legislative Provisions

(1) Bills may originate in either house, and may be amended or rejected by the other; and every bill shall be read on three different days in each house. 29/

(2) No law passed by the General Assembly, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency (which emergency must be expressed in the preamble or in the body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; . . . 30/

---

28. Constitution, Art. IV, Sec. 57, adopted 1908.

This section also provides for the time in which initiative and referendum petitions may be filed and how the number of legal voters shall be determined. A measure shall take effect when approved by a majority of the votes cast thereon. Ibid.

Even though the Legislature adds to a statute "This enactment is hereby declared necessary for the immediate preservation of the public peace, health and safety" of the State, the Supreme Court may examine the face of the legislative act, and if in fact it is not for the immediate preservation of the public peace, health or safety of the State, can and will declare the legislative declaration to that effect void. So a statute legislating out of office justices and constables, and permitting the Governor to appoint successors, held not for the "immediate preservation of the public peace, health and safety". State ex rel. Pollock vs. Becker, 289 Mo. 660, 233 S. W. 641 (1921).

29. Constitution, Art. IV, Sec. 26.

30. Constitution, Art. IV, Sec. 36.

Any Act to which the referendum may apply cannot be an emergency measure, consequently this section and section 57 prevent the Legislature from putting into immediate effect any measure which is subject to the referendum. State vs. Linville, 318 Mo. 698, 300 S. W. 1066 (1927); for section 57 see page 14, section III, paragraph C.

(Footnote forwarded)

III. Provisions Affecting Legislation (Cont'd)

D. Legislative Provisions (Cont'd)

(3) Within five years after the adoption of this Constitution, all the statute laws of a general nature, both civil and criminal, shall be revised, digested and promulgated in such manner as the General Assembly shall direct; and a like revision, digest and promulgation shall be made at the expiration of every subsequent period of ten years. 31/

(4) The General Assembly shall not pass any local or special law: . . . (listing thirty-two subjects upon which the Legislature shall not pass local or special laws). . . Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; . . . 32/

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

The General Assembly may, at any time, propose amendments to this Constitution as the majority of the members elected to each house shall deem expedient, . . . The amendments proposed, either by the General Assembly or by initiative petition, shall be submitted to the electors of the State for their approval or rejection, by official ballot title as may be provided by law, on one independent and separate ballot without any emblem or party designation whatever, at the next general election, or at a special election called by the Governor in his discretion prior to such general election, . . . If a majority of the electors of the State voting for and against any one of such amendments shall vote for such amendment, the same shall become a part of the Constitution, and shall go into force and effect at the end of thirty days after such election. . . 33/

---

(Footnote #30 - Continued)

What emergencies except statutes from referendum is a judicial question. *Fahey vs. Hoackmann*, 291 Mo. 351, 237 S. W. 752 (1922).

31. Constitution, Art. IV, Sec. 41.

32. Constitution, Art. IV, Sec. 53.

Exemptions from taxation is one of the subjects upon which the Legislature may not pass local or special laws. *Ibid.*

33. Constitution, Art. XV, Sec. 2, adopted 1920.

IV. Constitutional Amendment or Revision (Cont'd)

B. By Constitutional Convention

The General Assembly may at any time authorize by law that a vote of the electors of the State be taken upon the question, "Shall there be a Convention to revise and amend the Constitution?" which shall be submitted to the electors on a separate ballot without party designation of any kind, at either a special or general election, as the General Assembly may provide, and if a majority of the electors voting for and against the calling of a convention shall vote for a convention, the Governor shall issue writs of election to the sheriffs of the different counties, ordering the election of delegates to the convention, on a day not less than three nor more than six months after that on which said question shall have been voted on. . . 34/

---

34. Constitution, Art. XV, Sec. 3, adopted 1920.

This section further provides that two delegates from each senatorial district of the State and fifteen delegates-at-large, shall be elected. The section provides for the manner of their election, and the procedure of the Constitutional Convention. Lastly, it provides that any proposed constitution or constitutional amendments which have been adopted by the convention be submitted to a vote of the people in the manner provided in Art. XV, Sec. 2, (see page 16, paragraph A).

