

Rural School District—Limitation in the Amount of Tax That May be Levied for Operation and Maintenance.

There is no limitation upon the amount of taxes that may be levied for the maintenance and operation of rural school districts.

Miss May Trumper,
Superintendent of Public Instruction,
Helena, Montana.

My dear Miss Trumper:

You have asked to be advised whether there is any limit to the amount of tax which may be levied for maintenance and operation in the case of rural school districts.

The section of Chapter 211 of the Laws of 1919, being an Act to provide for the creation of rural school districts in each county, which applies to special levy, is as follows:

"The board of trustees of the rural school district shall at its regular annual meeting on the first Thursday in July, examine the budgets certified to it by the trustees of the several sub-districts, and from such budgets shall prepare a complete budget for the Rural School District, which shall provide for the furnishing of reasonable educational facilities to every child in the rural school district, including the payment of the board or rent or both, and transportation of children from isolated sections, in cases where the same is more expedient than maintaining a school in such isolated sections, and also including any other reasonable item of expenditure not herein enumerated, and necessary for carrying out the provisions of this Act. * * *"

"The board of trustees of the rural school district shall on or before the first Monday in August in each year certify to the board of county commissioners the total amount of money to be raised by taxation for the rural school district pursuant to the budget adopted by the board, and the board of county commissioners shall cause to be levied at the time of the levy of taxes for state and county purposes, a sufficient levy upon all of the taxable property within the rural school district, a tax sufficient to raise the amount of money so certified by the board of trustees * * *."

It will be observed that no limitation whatever is fixed in this Act on the amount of the levy.

The only other provisions contained in the statute in regard to levy in school districts are Sections 2001 and 2002, as amended by Chapter 196 of the Laws of 1919.

Section 2001 provides for a 6-mill general levy and is made on all the taxable property in the county.

Section 2002 provides for the special 10-mill additional levy.

The rural school district is a form of district created under special Act and having certain powers and privileges not enjoyed by an ordinary district. For instance, the Board are authorized to expend money for purposes not authorized in the ordinary school district.

Under Section 5 of this Act, a sub-district Board is authorized to make a special levy under the provisions of Section 2002 for any extraordinary expenditures other than operation and maintenance, and from this and other provisions contained in the Act, it is apparent that the Legislature did not intend a levy for operation and maintenance to be made in the case of a rural district under the provisions of Section 2002.

It is held that a general limitation on tax for school purposes does not control or limit school tax under special charters or statutes not inconsistent therewith. (35 Cyc. 1003; State v. Babcock, 87 Minn. 234, 91 N. W. 842.)

It therefore follows that your question must be answered in the negative.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.