

judge is, in my opinion, an officer performing a function in the scheme or plan of state government although he is elected locally."
(O.A.G. 1955-56, Vol. II, 415, 418)

I am persuaded that the people in their adoption of the Constitution of 1963 did not intend by the language appearing in Section 5 of Article II of that document to change the time of elections of the judges of the municipal courts throughout the state. The Official Record of the Michigan Constitutional Convention of 1961 has been examined as to this section and there is no mention in the Debates by the delegates indicating any intention to change the existing procedures for the election of municipal court judges. In my opinion the office of judge of a municipal court established pursuant to the Municipal Court Act, the Home Rule Cities Act, or the Michigan Uniform Municipal Court Act is a local office and is not a state office within the purview of Section 5, Article II, Michigan Constitution of 1963.

FRANK J. KELLEY,
Attorney General.

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TAXATION: Property – township – 15 mill amendment.

A township, whether chartered or unchartered, is entitled to an allocation of a minimum tax rate under the provisions of the Property Tax Limitation Act which is not repugnant to Section 6, Article IX, Michigan Constitution of 1963.

No. 4300

April 22, 1964.

Hon. William H. Thorne
State Representative
State Capitol
Lansing, Michigan

Your letter of February 20, 1964 requests my opinion upon the following question:

“Does * * * Section 6 Article 9 (Finance and Taxation) of the new Michigan Constitution exclude a Charter Township from participating in the division of the tax limitations, whether under the 15 mills or 18 mills, * * *?”

The mentioned constitutional provision limits the total ad valorem property tax rate to 15 mills of state equalized valuation. It further authorizes the legislature to enact measures permitting a majority of the qualified electors of a county to adopt a fixed division of millage for the county, its townships and school districts, the total of which tax rate limitations shall not exceed 18 mills.¹

The second paragraph of Section 6, Article IX, Constitution of 1963, provides:

¹ The 18-mill limitation is more fully discussed in Attorney General Opinion No. 4243 dated February 20, 1964.

"The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law."

But Article IX, § 6, Constitution of 1963, while it limits the total property tax rate, does not direct its division. The Property Tax Limitation Act² performs the function of dividing the basic 15-mill tax rate among local units which have filed budgets and statements with the tax allocation board under the statute.³

Section 2(a) of the Property Tax Limitation Act⁴ defines "local unit" to

"* * * mean counties, townships, villages, cities, school districts, community college districts and all other divisions, districts and organizations of government which may now or hereafter be established by law and which have power to levy taxes against property located within their respective areas, except such villages and cities for which there are provisions in their charters or general law fixing maximum limits on the power to levy taxes * * *."

Section 11(d) of the same statute provides that

"The board shall approve minimum tax rates as follows: For the county, 3 mills; for school districts, 4 mills; for community college districts organized after April 15, 1957, 1/1000 of 1 mill; for townships, 1 mill. * * * No local unit shall be allowed a tax rate in excess of what would be required according to its proposed budget."⁵

It is significant to note that for property tax allocation purposes a school district is a local unit and as such entitled to participate in the allocation of the basic 15 mill tax rate.

School District No. 9, Pittsfield Township, Washtenaw County v. Washtenaw County Board of Supervisors, 341 Mich. 388.

A charter township has been held to be a municipal corporation within the meaning of Article X, § 21 of the Michigan Constitution of 1908.

Charter Township of Warren v. Municipal Finance Commission, 341 Mich. 607.

Bacon v. Kent-Ottawa Metropolitan Water Authority, 354 Mich. 159.

Township of Southfield v. Drainage Board for Twelve Towns Relief Drains, 357 Mich. 59.

² Act 62, P.A. 1933, as amended (C.L. 1948 and C.L.S. 1961 §§ 211.201 et seq.; M.S.A. Rev. Vol. and 1963 Cum. Supp. §§ 7.61 et seq).

³ § 11, being C.L.S. 1961 § 211.211; M.S.A. Rev. Vol. § 7.71.

⁴ C.L.S. 1961 § 211.202(a); M.S.A. Rev. Vol. § 7.62(a).

⁵ C.L.S. 1961 § 211.211(d); M.S.A. Rev. Vol. § 7.71(d).

Yet, it is defined as a local unit for tax allocation purposes, and was ruled to be entitled to a share of the basic 15 mills by one of my predecessors.⁶

There can be no question that the Property Tax Limitation Act was intended by the legislature to subject municipalities not subject to the 15-mill tax limitation to the administrative activity of the county tax allocation board, with exceptions as there provided. The relevant language is found at § 11(f):

“The board shall approve a maximum tax rate for each local unit which has voted to increase the total tax rate limitation as provided in section 21 of article 10 of the constitution of Michigan, and as provided for in this act, which tax rate, with other maximum tax rates which may be levied within the area of such local unit, shall not exceed the limitation voted. In approving a maximum tax rate for the various local units, the board shall not take into consideration any increase of the tax rate limitation voted by any local unit.”⁷

As provided by section 11(d) townships are among the local units for which the county tax allocation board is directed to approve minimum tax rates within the basic 15 mills.

Charter townships are subject to the general laws of the state, including the provisions of the General Property Tax Limitation Act.⁸

There is nothing in the provisions of Article IX, section 6, Constitution of 1963, to change the relevant provisions of statute and case law as hereinabove set forth. Thus, the Property Tax Limitation Act is not repugnant to this section of the 1963 Constitution.

It is therefore my opinion that the Property Tax Limitation Act requires the allocation of a minimum tax rate to townships, whether chartered or unchartered, as provided by the Property Tax Limitation Act.

FRANK J. KELLEY,
Attorney General.

⁶ O.A.G. No. 795, June 17, 1948.

⁷ C.L.S. 1961 § 211.211(f); M.S.A. Rev. Vol. § 7.71(f).

⁸ *Charter Township of Warren v. Municipal Finance Commission*, supra. *City of Hazel Park v. Municipal Finance Commission*, 317 Mich. 582.