

**N.D.A.G. Letter to Bopp (Aug. 31, 1992)**

August 31, 1992

Mr. Lyle R. Bopp  
Sargent County State's Attorney  
Box 125, Main Street  
Forman, ND 58032

Dear Mr. Bopp:

Thank you for your May 1, 1992, letter requesting an opinion as to whether a new school district consisting of a group of former school districts that is formed pursuant to N.D.C.C. ch. 15-27.6, school district boundary restructuring, may impose varying general fund mill levies on the areas comprising the former school districts in order to accomplish an equitable adjustment of assets.

You indicate in your letter that the Southeast Restructuring Unit, which is planning on forming a new school district pursuant to N.D.C.C. ch. 15-27.6, is composed of five school districts. These school districts have widely varying property and cash assets. You indicate that, as a result of these variations in assets, the five school districts have varying mill levies ranging from 128.5 mills to 164.82 mills. In addition to the foregoing mill levies, three of the school districts currently assess additional mill levies for the repayment of building debt.

You indicate the Southeast Restructuring Unit is proposing that, if a new school district is formed, it assess a varying general fund mill levy over a 15-year period. This is intended to accomplish a gradual adjustment of assets, due to the varying assets which the five school districts would bring into the new school district. As a result, over the 15-year period the school districts bringing in more assets will be assessed a lower mill levy than the school districts bringing in fewer assets, with the mill levies of the districts gradually equalizing by the end of the 15-year period. In addition, the areas comprising the three school districts that currently assess mill levies for therepayment of building debt, will continue to be assessed until each has paid off its own building debt.

You ask whether a new school district formed pursuant to N.D.C.C. ch. 15-27.6 may impose varying general fund mill levies over a period of 15 years, on the areas comprising the original school districts, as described above, to accomplish an adjustment of assets.

In a recent opinion, I determined that a general fund tax levy for a reorganized school district created through restructuring under N.D.C.C. ch. 15-27.6 must be a uniform levy at the same rate for the entire reorganized district. 1992 N.D. Op. Att'y Gen. 42. A copy of that opinion is enclosed for your information.

The analysis in the enclosed opinion indicates that a new school district formed pursuant to N.D.C.C. ch. 15-27.6 does not have statutory authority to impose varying general fund mill levies on the areas comprising the original school districts. Neither does it have the statutory authority to impose varying mill levies for other funds, the purpose of which is to meet the expenses of the new school district. However, if any of the original school districts, on becoming a part of the new school district, is levying a tax to pay off a particular debt, then that additional levy may continue to be assessed to the land area comprising the original school district until that debt is paid off.

In conclusion, it is my opinion that the general fund mill levy must be at a uniform rate for the entire reorganized district.

I trust this responds to your question.

Sincerely,

Nicholas J. Spaeth

las/jfl

Enclosure