

Date Issued: June 1, 1981 (AGO 81-50)

Requested by: Richard C. Wilkes,
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- QUESTION PRESENTED -

Whether a township may hold a special meeting to increase its mill levy to ninety-five percent of its maximum limitation in order to qualify for a refund of the motor vehicle fuel tax as provided in the amendment to section 57-50-01, N.D.C.C., enacted by the 1981 Legislative Assembly.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that taxes may be levied by a township only at the annual meeting and not at a special meeting.

- ANALYSIS -

Section 57-15-19, N.D.C.C., reads as follows:

57-15-19. TOWNSHIP TAX LEVIES. The electors of each township shall have power at the annual meeting to vote to raise such sums of money for the repair and construction of roads and bridges, and for all township charges and necessary expenses as they deem expedient, within the limitations prescribed in section 57-15-20, and on the fourth Tuesday in March, or within ten days thereafter, of each year, the board of supervisors of each civil township shall levy annual taxes for the ensuing year, as voted at the annual township meeting, and the tax levy shall be limited by the amount voted to be raised at such annual meeting. The electors at such annual meeting, may direct the expenditure of the road tax or a part of it, in an adjoining township under the joint direction of the boards of supervisors of the townships interested and furnishing such funds. (Emphasis supplied).

This language is clear and unambiguous.

Section 58-04-02, N.D.C.C., reads as follows:

58-04-02. SPECIAL MEETINGS - WHEN HELD. A special township meeting may be held for the purpose of electing township officers to fill vacancies that occur and for the purpose of transacting other lawful township business whenever the supervisors or township clerk, or any two of them, together with at least twelve freeholders of the township, shall file in the office of the township clerk a written statement that a special meeting is necessary, or whenever a special meeting is required by any other provision of the laws of this state.

The specific language in section 57-15-19, N.D.C.C., plainly states that taxes are to be levied at the annual meeting. There is no language in section 58-04-02, N.D.C.C., concerning special meetings, that would allow the levy of taxes to be made at special meetings.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

ROBERT O. WEFALD
Attorney General

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