

**LETTER OPINION
2001-L-42**

October 10, 2001

Mr. Lonnie W. Olson
Ramsey County State's Attorney
524 4th Avenue #16
Devils Lake, ND 58301

Dear Mr. Olson:

Thank you for your letters regarding the right of governmental entities to vote on the creation of a special assessment district when their property is benefited and will be assessed. More specifically, you questioned whether Ramsey County and the Ramsey County Water Resource District have the right to vote on the creation of a special assessment district that includes county properties. In discussing this matter with local officials, it is my understanding the county is the only governmental entity to be assessed. It is also my understanding the assessment district is being created under N.D.C.C. ch. 61-16.1.

Sections 61-16.1-15 through 61-16.1-22, N.D.C.C., contain the procedures a water resource board must follow to establish a special assessment district. Those statutes detail how water resource boards are to apportion assessments against all property benefiting from the special assessment project, including property of counties, cities, and townships. The law also specifically grants counties, cities, and townships that will be assessed the right to vote. Section 61-16.1-19, N.D.C.C., provides that "[a]ffected landowners, and the governing body of any county, township, or city to be assessed, have thirty days after the date of the hearing to file their votes with the secretary of the water resource board concerning the project."

The voting rights of landowners, cities, counties, and townships are established by N.D.C.C. § 61-16.1-20. Landowners have one vote for each dollar assessed to tracts of land owned by them. Id. Likewise, tracts located within a special assessment district and owned by counties, townships, or cities generate one vote for each dollar of assessment for the governmental entity. Id. The number of votes each landowner, county, city, or township is entitled to will depend upon how the water resource board apportions the total cost of the project against each tract of land and against the city,

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county, or township. When all votes have been filed, the board determines whether the project is approved. N.D.C.C. § 61-16.1-19. If fifty percent or more of the votes filed are against the project, the vote constitutes a bar against proceeding further with the project. Id. As such, it is clear that the county does have the right to vote on the creation of the special assessment district.

Sincerely,

Wayne Stenehjem
Attorney General

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