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9-12-91
PA



359 Nevada Ave.

LOVELL, WYOMING 82431

August 26, 1991

Donna Rice
Attorney General's Office
State Capitol Building
200 West 24th Street
Cheyenne, WY 82002

RECEIVED

AUG 28 1991

ATTORNEY GENERAL'S
OFFICE

Dear Donna, if I may be so personal;

I have some questions concerning Mill Levy Elections.

Shoshone Conservation District tried for a Mill Levy in the General Elections of 1988 and 1990 and failed.

I inquired about a Special Election this past spring and the County Clerk told me that she didn't think enough time had elapsed since the 1990 General Election to go for a Special Election. And when I asked the Chairman of the Commissioners about the cost he responded "a buch;" and I understood it to be to the district.

From information I have received from other District Clerks, who had successful Special Elections, I've pretty well concluded that both were "hedging," so to speak, to keep us from going for a Special Election, as they were short on funds because of some unwise decisions in the past, and cash reserves were low.

Question No. 1: How much time must elapse between elections?
No. 2: Who pays? The district or the County? I've been told by three District Clerks that the County Commissioners, or County, pays for Special Elections. So, please, who pays? No. 3: If we are successful in a Special Election would we have to go again in the 1992 General Election or in another Special Election in four years?

My Soil Conservationist, Evan Murray, came home from a meeting of the Conservationists last week and said that they had discussed district funding and discovered that district going for Special Elections had gotten their Mill Levy because only people interested in conservation went to vote.

I'll appreciate any information and help that you can give me very much. We'd like to get the Mill Levy here, as we have several projects needing doing, and no money. We only lost by 96 votes in 1990.

Sincerely,

al
A. L. Kongable, District Clerk



KATHY KARPAN

Secretary of State

Elections (307) 777-7186

Publications 777-7378

Notaries 777-5342

Fiscal 777-5343

FAX 777-5339

Received 9/17/91

September 16, 1991

Mr. A. L. Kongable
District Clerk, Shoshone Conservation District
359 Nevada Avenue
Lovell, Wyoming 82431

Dear Mr. Kongable:

Donna Rice of the Attorney General's Office asked me to respond to your letter since the Secretary of State's Office constantly deals with elections questions of all types.

I am enclosing three Attorney General's opinions that address the conservation district mill levy election. As you will see from the opinions, ~~it has been determined that~~ (1) the initial conservation district mill levy election may be held at a general election or at a special election, and (2) a defeated mill levy question need not wait a certain time period before the question is put to the voters again since the statutes are silent.

I have also enclosed a copy of the W.S. 11-16-134, the statute dealing with the mill levy election. This statute states that the election is at the expense of the county, and that if the proposition is approved, the same proposition shall be submitted at the second general election following approval, and every four years after that until the proposition is defeated. If the Shoshone Conservation District was to have a special election this fall or winter and the mill levy was approved, the question would not be put to the voters again until November 1994.

Please do not hesitate to call me if you have any other questions.

Yours,

Margy White

Deputy Secretary of State

MW/tlh

Enclosures



STATE OF WYOMING

MARGY WHITE
DEPUTY

SECRETARY OF STATE

June 16, 1989

Mr. Collin Fallat
Resources Analysis Section
Wyoming Department of Agriculture
2219 Carey Avenue
Cheyenne, Wyoming 82002-0100

Dear Mr. *Collin* Fallat:

Thank you for your letter asking for clarification on the election dates for conservation districts.

You are correct that my office, along with the Albany County Clerk's Office, came to the conclusion that the mill levy election could be held at a time other than a general election because W.S. 1977 11-16-134(c) uses the word "may" rather than "shall." Had that statute stated, "the proposition to impose this tax shall be submitted at any general election," we would have concluded that the district supervisors had no choice but to request the election at a general election.

However, in using the word "may" it is the opinion of this office that the district supervisors had some discretion in requesting a date for an election. Generally in interpreting statutes, the word "shall" means a mandatory and obligatory duty, while the word "may" indicates a duty which is permissive but not required.

I hope this helps clarify the issue. Please do not hesitate to call me if you have any questions. Thank you.

Yours,

A handwritten signature in cursive script, appearing to read "Kathy Karpan".

Kathy Karpan
Secretary of State

KK/tlh



KATHY KARPAN
Secretary of State
Cheyenne, Wyoming 82002-0020

April 25, 1990

Ms. Debbie Brammer
Executive Director
Wyoming Association of Conservation Districts
1750 Westland Road
Cheyenne, Wyoming 82001

Dear ^{Debbie} Debbie:

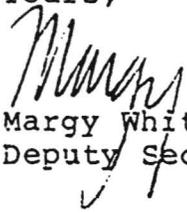
This letter confirms our recent conversations regarding the time and frequency of mill levy elections for conservation districts.

Although W.S. 11-16-134(b) states that the proposition to impose the tax may be submitted at any general election, it is the opinion of this office, as well as the Attorney General's Office, that the election does not have to be submitted at a general election, and may be submitted at a primary election.

A February 5, 1990, opinion from our elections counsel, Senior Assistant Attorney General Rowena Heckert, addressed similar wording in the sales and lodging tax statutes. Ms. Heckert concluded that the legislature was presumed to have chosen the statutory language carefully, and because only general or special elections were named, the legislature may have intended to limit the sales and lodging tax elections to the two situations. However, because the language is permissive rather than mandatory, Ms. Heckert concluded that the election could be held on primary election day.

It also appears from W.S. 11-16-134 that there is no prohibition from submitting the mill levy tax question to the voters at the 1990 general election should they turn down the question at the 1990 primary election. Although most ballot proposition statutes require a one year waiting period before submitting the proposition to the voters again, this particular provision is absent in W.S. 11-16-134.

Yours,


Margy White
Deputy Secretary of State

Margy White
Deputy

The Capitol
(307)777-7378

Cross references. — As to leasing of state lands generally, see §§ 36-5-101 to 36-5-116. Meaning of "this act". — For the definition of "this act," referred to in this section, see § 11-16-102(a)(xii).

§ 11-16-133. Tax levied on property in district; maximum amount; soil and water conservation fund; other appropriation authorized.

(a) Subject to W.S. 11-16-134, the county commissioners may annually levy a tax to carry out this act. The tax shall be levied upon all property in the district and shall not exceed one (1) mill on each one dollar (\$1.00) of assessed valuation. The tax is not part of the general county or city mill levies. The tax shall be levied and collected as other county taxes and the county treasurer shall remit the taxes collected to the district to a separate fund to be known as the conservation district fund, which shall be used only to carry out the purposes of this act.

(b) Whether or not a tax levy is authorized under W.S. 11-16-134, each board of county commissioners may make appropriations from the county general fund to districts established under this act for the purpose of providing soil and water conservation programs. (Laws 1987, ch. 21, § 1.)

Cross references. — As to the definition of "commission" see § 11-16-102 and notes thereunder. Meaning of "this act". — For the definition of "this act," referred to throughout this section, see § 11-16-102(a)(xii).

§ 11-16-134. Imposition of tax; vote of electors required.

(a) No tax shall be imposed under W.S. 11-16-133 until the proposition to impose the tax is submitted to a vote of the qualified electors of the district and a majority of those casting their ballots vote in favor of imposing the tax. Any tax imposed under this act shall be levied in the year following the election at which the imposition of the tax is approved.

(b) The proposition to impose a tax under this act shall be at the expense of the county and may be submitted to the electors of the county upon the receipt by the board of county commissioners of a petition requesting the election signed by a majority of the supervisors of the district. The election shall be at the direction and under the supervision of the board of county commissioners.

(c) Subject to the limitation of subsection (b) of this section, the proposition to impose a tax under this act may be submitted at any general election. A notice of election shall be given by the county clerk in at least one (1) newspaper of general circulation published in the county wherein the election is to be held and shall specify the object of the election. The notice shall be published at least once each week for a thirty (30) day period preceding the election. At the election the ballots shall contain the words "for the conservation district tax" and "against the conservation district tax". If the proposition is approved the same proposition shall be submitted at the second following general election and thereafter at succeeding general elections

every four (4) years until the proposition is defeated. (Laws 1987, ch. 131, § 1.)

Cross references. — As to the definition of "commission" see § 11-16-102 and notes thereunder. Meaning of "this act". — For the definition of "this act," referred to throughout this section, see § 11-16-102(a)(xii).