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AGRICULTURE

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MEMORANDUM

August 8, 1997

TO: Ron Micheli
Director, Department of Agriculture

Grant Stumbough
Natural Resources Section, Department of Agriculture

FROM: Carrol S. Verosky *CSV*
Assistant Attorney General

RE: Conservation District Mill Levies

The Department of Agriculture has been asked by the Wyoming Association of Conservation Districts (WACD) to request an opinion from the Attorney General as to the applicability of WYO. STAT. § 16-4-101, et.seq., (Uniform Municipal Fiscal Procedures Act), to Conservation District mill levies.

Question 1: The first specific question asked is, does the Uniform Municipal Fiscal Procedures Act apply to voter approved mill levies?

Answer: No. See discussion below.

Discussion

The Uniform Municipal Fiscal Procedures Act applies to municipalities. Under the Act, "municipalities" is defined in WYO. STAT. § 16-4-102 as:

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- (A) All incorporated first class cities, towns having a population in excess of four thousand (4,000) inhabitants and all towns operating under the city manager form of government;
- (B) Counties;
- (C) School districts;
- (D) Community colleges.

Conservation districts are not included within this definition, and would not have to comply with the budget and advertising requirements as set forth in WYO. STAT. § 16-4-103 (a), which provides: "Municipal budgets are required each fiscal year for all expenditures and funds of the municipalities." WYO. STAT. § 39-2-401(a)(iii) also seems to recognize that special districts are not controlled by the Uniform Municipal Fiscal Procedures Act . .On or before July 31 by all governmental entities subject to the Uniform Municipal Fiscal Procedures Act and all special purpose districts having the authority under general laws to levy taxes or impose assessments."

So where do conservation districts fit in terms of the requirements for budgeting and advertising? Conservation Districts are established in WYO. STAT. § 11-16-101, *et seq.*, entitled the "Wyoming Conservation Districts Law". "District" or "conservation district" is defined within this act as "a government subdivision of this state, and a public body corporate and politic, organized in accordance with this act", WYO. STAT. § 11-16-102(a)(v). The legislature's intent is set forth in WYO. STAT. § 11-16-103, as follows:

It is hereby declared to the policy of the legislature to provide for the conservation of the soil, and soil and water resources of this state, and for the control and prevention of soil erosion and thereby to stabilize ranching and farming operations, to preserve natural resources, protect the tax base, control floods, prevent

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impairment of dams and reservoirs, preserve wildlife, protect public lands, and protect and promote the health, safety and general welfare of the people of this state.

It would appear the legislature had a clear intent and goal in distinguishing conservation districts by providing an act just for such districts. This same reasoning would also validate the delineation of conservation districts as being special purpose districts. For budget format purposes, this fact is important because the only section of the Uniform Municipal Fiscal Procedures Act which needs to be considered is WYO. STAT. § 16-4-104 (f), which states as follows:

Incorporated towns not subject to this act, special purpose districts having the authority under the general laws of Wyoming to levy taxes or impose assessments and public entities receiving funds from a municipality shall prepare budgets in a format acceptable to the director of the state department of audit.

The director of the state department of audit then has the discretion to determine the acceptable format for budgets prepared by conservation districts.

Question 2: The second question asked is if a conservation district has already received voter approval for up to one mill and has in the past assessed less than a full mill, are they required to publish the advertisement indicated in the statute if they choose to increase the percentage of mill levy funding they receive?

Answer: No. See discussion below.

Discussion

Conservation districts are not within the definitional inclusions for the Uniform Municipal Procedures Act, as determined in the discussion to question one. WYO. STAT. §§ 11-16-133 and 11-16-134 set forth the requirements for conservation

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districts in levying taxes as such taxation relates to the voter propositions at elections. Section 11-16-133(a) states as follows:

"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."

Other election procedures which are applicable to conservation districts are contained in the Special District Elections Act of 1994, WYO. STAT. § 22-29-101. This act specifically applies to conservation districts as stated in WYO. STAT. § 22-29-103(a)(ii). No advertising requirements are specified in either of these election standards, (the Special Districts Election Act or the Conservation Districts Act), but it appears quite clear that the one mill is the allowable amount. Regardless of whether or not the actual amount collected has been less in the past, the one mill was approved by voters and it would seem there would be no additional requirement for advertising in this particular case.

Question 3: In relation to question 2, does the advertisement requirement apply to an increase in revenue received by a conservation district resulting from an increase in property values?

Answer: Refer to the discussion to question 2 and the discussion below.

Again, the advertising requirements of the Uniform Municipal Fiscal Procedures Act do not apply to conservation districts, however, there is an exception within this act for budget hearing processes. WYO. STAT. § 16-4-109(b) states that "This

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section also applies to districts and entities described in W.S. 16-4-104(f) excluding incorporated towns. . ." WYO. STAT. § 16-4-104(f) is quoted and discussed in the discussion to question one.

WYO. STAT. § 11-16-133(a) is clear: "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." In particular, the requirements in WYO. STAT. § 16-4-109(c) must be complied with when providing the summary of the tentative budget:

The summary provided under subsection (a) of this section shall also include whether the estimated available revenues and proposed budget for the ensuing budget year will cause the expenditures to exceed one hundred five percent (105%) of the amount of expenditures for the current fiscal year, or will cause the mill levies to increase from the levies in effect for the current fiscal year. If these limitations are exceeded, the following notice, as applicable, shall be included to provide an estimate of what this change may mean to a taxpayer: ...

In short, if the estimated expenditures will exceed 105% of the amount for the current fiscal year, or cause the mill levies to increase, then the notice as set forth in the statute must be properly printed and advertised as specified. Under such circumstances, the individual conservation districts must comply appropriately.

CSV:BKM



Wyoming Department of Agriculture

JIM GERINGER, GOVERNOR
RON MICHELI, DIRECTOR

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Memorandum

Date: January 28, 1997
To: Cynthia L. Harnett, Assistant Attorney General
From: Ron Micheli *RM*
Subject: Opinion regarding mill levies

We have been asked by the Wyoming Association of Conservation Districts (WACD) to seek an Attorney General's opinion on the applicability of Chapter 92; Truth in Taxation; Section 16-4-103, et.seq., to Conservation District mill levies.

The question posed by WACD related to the requirements set forth in this statute include:

1. Does this law pertain to Voter approved mill levies?

The Conservation Districts must receive the approval of the voters within their District in order to levy a mill.

2. Many Districts receive voter approval to tax up to one mill, however several of the Districts assess less than the one mill allowed. If a District has already received voter approval for up to one mill and has in the past assessed less than a full mill, are they required to publish the advertisement indicated in the statute if they choose to increase the percentage of mill levy funding they receive?

3. Does the advertisement requirement apply to an increase in revenue received by a District resulting from an increase in property values? This issue arose in one of the Districts where there was an estimated increase in property values of nine percent. This District had in the past received one-half mill. They were again requesting one-half mill. However, the value of their half mill would have increased by approximately nine percent due to property value increases. When reviewing the language required in the advertisement as set forth under section 16-4-109, the advertisement language requires the District to state what the increase will cost the taxpayer per \$1000 in assessed value. In the case of a property value increase, the cost does not increase per \$1000, however taxes would increase due to the increase in the value of the individual taxpayer's property.

If you have any questions, please feel free to contact Grant Stumbough, Manager of our Natural Resources Section at 777-6579.

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