

Opinion No. 56-6492

July 11, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Thomas P. Foy, District Attorney, Sixth Judicial District, Silver City, New Mexico

We have your letter of July 6th requesting an opinion from this office as to the proper construction to be placed upon Section 15-48-13, N.M.S.A., 1953, Pocket Supplement.

Your first question is as follows:

Does the special levy provided for by Section 15-48-12, N.M.S.A., 1953, Pocket Supplement, have to be submitted to the electors at each general election after the same has once been approved?

We are of the opinion that the answer to this question is found in Section 15-48-13, N.M.S.A., 1953 Compilation, Pocket Supplement, the pertinent part reading as follows:

". . . In the event such levy is voted upon favorably by the electors of such county, the levy shall become effective and be made for the ensuing fiscal year and future years; Provided that the question of continuing such levy shall be submitted to the electors at each general election thereafter; . . ."

Clearly the statute contemplates that after the levy has once been made the question of continuing such levy must be submitted at each general election thereafter.

Your second question is as follows:

Can only people who have paid property taxes and veterans vote on the question of continuing such levy?

Section 15-48-13, N.M.S.A., 1953 Compilation, Pocket Supplement, provides that the County Commissioners:

"are hereby authorized to submit to the **qualified electors** of the county the question of levying such additional taxes over and above such limitation. . ." (Emphasis Supplied)

We find no limitation in this particular provision of the statute which would require the electors to have paid property taxes or by veterans who are property owners. We are of the opinion that any qualified elector of the county is authorized to vote upon the question of continuing this special levy.

Indeed we are of the opinion that Article VIII, Section 2 of the New Mexico Constitution would preclude the Legislature from limiting persons entitled to vote on such special levy to those who own or pay property taxes.

We therefore conclude that any qualified elector of Luna County is entitled to vote upon the question of continuing this special levy.

Trusting we have answered your questions, we remain

By: Paul L. Billhymer

Assistant Attorney General