

Opinion No. [30-42]

March 17, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: Mr. H. C. Buchly, City Attorney, Roswell, New Mexico.

MUNICIPAL CORPORATIONS -- Payment of property tax to qualify for voting on bonds.

OPINION

Reference is made to yours of the 15th inst. in which you say the City of Roswell will vote on bond issues totaling \$ 300,000.00 on April first, such issues being for five different purposes. You are to be advised as to whether or not ex-service men entitled to an exemption of \$ 2,000 and who did not pay a tax above the exemptions, are entitled to vote.

The answer to your question, I think, is to be found in section 12 of Article IX of the Constitution of the State of New Mexico. This section has to do with the debt-contracting power of municipalities and among other things provides "no such debt shall be created unless the question of incurring the same shall, at a regular election for councilmen, aldermen, or other officers of said city, town or village have been submitted to a vote of such qualified electors thereof as have paid a property tax therein during the preceding year and a majority of those voting on the question, by ballot deposited in a separate ballot box, shall have voted in favor of creating such debt."

You will note the requirement that only those who may vote on the question of creating indebtedness, who have actually paid a property tax within the municipality and within the preceding year. The soldier's exemption of \$ 2,000 places him in no different class than does the exemption \$ 200.00 to a head of a family, in order to be entitled to vote on the question of bonds an elector otherwise qualified, must have actually paid a property tax. There is no limitation as to the kind of property upon which tax has been paid. It may be a tax on real estate or a tax on personal property, which, of course, would include an automobile. You, of course, will note that since the first of January, 1930, motor vehicles registered as required by the registration law, are exempt from taxation so that now property tax is not paid on automobiles though, of course, it is possible for one to have paid within the last year a property tax on an automobile.