

Opinion No. 36-1334

March 13, 1936

BY: FRANK H. PATTON, Attorney General

TO: Dr. J. Rosslyn Earp, Director of Public Health, Santa Fe New Mexico.

{*108} Your letter dated March 12, 1936, requesting our opinion relative to the effect of Chapter 132, Laws of 1935, upon the provisions of Section 6, Chapter 131, Laws of 1935, is hereby acknowledged.

Chapters 131 and 132 of the Session Laws of 1935 are in pari materia, i.e., of the same matter; on the same subject. It is a general rule of statutory construction that laws pari materia are to be construed with reference to each other. It is stated in 59 C.J., Section 622, at page 1053:

"The rule that statutes in pari materia should be construed together applies with particular force to statutes passed at the same session of the legislature; especially when they are passed or approved on the same day, or where one refers to the other, or is declared to be cumulative. It is to be presumed that such acts are imbued with the same spirit {*109} and actuated by the same policy, and they are to be construed together as if parts of the same acts. **They should be so construed, if possible, as to harmonize, and give force and effect to the provisions of each:** * * *"

In view of the foregoing, it is our opinion that Chapter 132, Laws of 1935, in no way limits the mandatory levy required by Section 6, Chapter 131, Laws of 1935, with this exception: said mandatory levy shall not exceed the maximum of one mill on the dollar as prescribed by said Chapter 132.

You further request our opinion relative to the effect of the constitutional amendment limiting taxation of property to twenty (20) mills upon the provisions of Section 38 Chapter 143, Laws of 1921.

Said Section 38 of Chapter 143 is applicable **only** to Chapter 17, Laws of 1919, and so states therein. The aforesaid Chapter 17, Session Laws of 1919, has been repealed by Chapter 133, Laws of 1921. If we correctly interpret your letter, you desire our opinion upon whether or not the special health tax provided for by Chapter 132 of the Laws of 1935 is to be levied in addition to the regular five (5) mill county levy or is to be included therein.

The constitutional amendment adopted in 1933 limited the total levy to twenty (20) mills, exclusive of public debts, etc., is naturally controlling. A special health tax, in our opinion, must be within this twenty (20) mill limitation. Since the twenty (20) mill limitation is broken down by the State Tax Commission into a certain levy for state purposes, another for county purposes, etc., it is our opinion that the special health tax

here in question must come within the five (5) mill limitation for county expenses, and is not to be considered as an additional levy thereto.

Trusting the foregoing fully answers your inquiries, we are

By EDWARD P. CHASE,

Asst. Atty. General