

Opinion No. 62

SCHOOLS AND SCHOOL DISTRICTS; Elections; extra levy elections in high school districts, procedure for—SCHOOLS AND SCHOOL DISTRICTS; Levies; extra levy elections in high school districts, procedure for—SCHOOLS AND SCHOOL DISTRICTS; Taxation; Extra Levies; extra levy elections in high school districts, procedure for—SCHOOLS AND SCHOOL DISTRICTS; High Schools; Levies; extra levy elections in high school districts, procedure for—Sections 75-3801 and 75-4609, Revised Codes of Montana, 1947

- Held:** 1. If the trustees of a district high school contemplate the voting of a special levy on the area of the high school district, authority for such election must be first obtained at a meeting of the trustees of the district and the chairman, or designates, of the common school districts comprising the high school district in conformity with Section 75-4609, R.C.M., 1947.
2. The trustees of a district high school may call an election for an extra levy on the common school district within which the high school is situated without a meeting with the chairman, or designates, of the common school district comprising the high school district in accord with Section 75-3801, R.C.M., 1947, but the levy, if imposed, will be limited to the area of the common school district within which the high school is situated.

May 31, 1960

Mr. Charles Marshall
County Attorney
Fergus County
Lewistown, Montana

Dear Mr. Marshall:

You have requested my opinion as to whether the trustees of a district high school may call an election to submit the question of an extra levy on a high school district without calling a meeting attended by the chairman of the boards of trustees of all common school districts included within the high school district and securing the approving vote of a majority of those in attendance.

Section 75-4609, R.C.M., 1947, as amended by Chapter 147, Laws of 1959, authorizes the submission of the question of a special tax on a high school district for the use of the high school. In obtaining the authority for the submission of the question, the trustees of the district high school and the chairman of the boards of trustees of all the common school districts within the high school shall meet and vote upon the question submitting the proposition of an extra levy to the qualified electors of the high school district. Such a meeting is a condition precedent to such an election.

The procedure for calling an election for an extra levy imposed on a school district as distinguished from a high school district is found in Section 75-3801, R.C.M., 1947. Such an election may be initiated by the trustees of the district without any meeting with representatives from common school districts which are in the high school district for the reason that under the statute the extra levy will be placed on the school district within which the high school is situated as distinguished from the high school district. A school district extra levy under Section 75-3801, R.C.M., 1947, is distinguished both in procedure and the area taxed as this statute states:

"That the provisions of this act shall not prevent the voting of a special levy on a high school district as provided for in Chapter 130, Laws of 1949 (75-4609)."

In Opinion No. 92, Volume 25, Report and Official Opinions of the Attorney General it was stated that Section 75-3801:

". . . authorizes an election on the question of an additional levy for the support of a district high school to the voters of the district in which the high school is situate."

The Opinion further states that Section 75-4609:

". . . permits the qualified electors of a high school district to authorize an additional levy to support a high school, which levy would be made over the entire high school district."

It is, therefore, my opinion that if the trustees of a district high school contemplate the voting of a special levy on the area of the high school district, authority for such election must be first obtained at a meeting of the trustees of the district and the chairman, or designates, of the common school districts comprising the high school district in conformity with Section 75-4609, R.C.M., 1947.

The trustees of a district high school may call an election for an extra levy on the common school district within which the high school is situated without a meeting with the chairman, or designates, of the common school district comprising the high school district in accordance with Section 75-3801, R.C.M., 1947, but the levy, if imposed, will be limited to the area of the common school district within which the high school is situated.

Very truly yours,
FORREST H. ANDERSON
Attorney General