

**OPINION
65-214**

November 9, 1965 (OPINION)

Mr. Vernon S. Cooper
Secretary-Treasurer
Garrison Diversion Conservancy District

RE: Officers - Garrison Conservancy District - Expenses

This is in response to your letter in which you ask for an opinion on the following question:

"Do the provisions of Chapter 304, 1965 Session Laws of the state of North Dakota and the procedures set forth therein, apply to the expense claims of directors of irrigation districts established under the laws of the state of North Dakota, Chapter 61-05 of the North Dakota Century Code?"

Chapter 304 of the 1965 Session Laws amends, amongst other things, sections 44-08-03 and 54-06-09 of the North Dakota Century Code, pertaining respectively to travel expenses of officials and mileage expenses of state officers.

Section 44-08-03 is a general statute and encompasses and embraces all elective and appointive officers of the state and its political subdivisions, agencies, bureaus, boards and commissions. The last sentence in section 44-08-04 specifically exempts the governor, lieutenant governor, judges of the Supreme Court, district courts and county courts of increased jurisdiction, and members of the legislative assembly from the limitations prescribed in said section.

Chapter 61-05 of the North Dakota Century Code prescribes the manner in which an irrigation district may be created. Chapter 61-06 sets forth the various duties and powers of the governing body which, in reality, is comprised of the directors of an irrigation district. Irrigation districts as such would be considered a subdivision or agency of the state of North Dakota.

Sections 61-06-22 of the North Dakota Century Code, as amended by Chapter 420 of the 1963 Session Laws, provides as follows:

"DIRECTORS AND OFFICERS - SALARY, MILEAGE, AND EXPENSES.
Each director shall receive compensation, mileage and actual and necessary expenses when attending meetings or while engaged in official business under order of the board not to exceed the compensation per day, mileage and expenses paid to a county commissioner. The salary of the secretary, assessor, and treasurer shall be determined by the board of directors."

This is a special law which prevails over the provisions of the amendments to sections 44-08-03 and 44-08-04 enacted by Chapter 304 of the 1965 Session Laws. These sections are provisions of a general nature. It is a recognized principle of law that where a special statute and general statute are in irreconcilable conflict, the special statute prevails over the general statute. In this instance section 61-06-22 would prevail.

It is our opinion that travel expenses incurred by directors of the irrigation districts are governed by the provisions of section 61-06-22, as amended by Chapter 420 of the 1963 Session Laws. This section by reference incorporates the provisions relating to expenses for county commissioners, which is section 11-10-10(3). As such, section 11-10-10(3), as amended by Chapter 99 of the 1965 Session Laws, governs as to the reimbursement of travel expenditures for directors of irrigation districts established under Chapter 61-05.

HELGI JOHANNESON
Attorney General