

**OPINION  
70-265**

February 9, 1970 (OPINION)

Mr. Thomas E. Rutten

Assistant State's Attorney

Ramsey County

RE: Parks - Joint Park Districts - Mill Levy Elections

This is in response to your letter in which you call our attention to Section 11-28-17 of the North Dakota Century Code, and then ask whether or not the election mentioned in such section requires that the measure be approved by each separate county comprising a joint park district.

Section 11-28-17 provides as follows:

"DISTRICT BUDGET - TAX LEVY - ELECTION. The board of joint park commissioners shall request the respective boards of county commissioners of the counties within the joint park district to submit to the electors of the joint county park district at any general election the question of a maximum tax levy therein for park purposes. The question shall be submitted as follows: Shall the board of county commissioners be authorized to levy a tax of need of not to exceed - - - - - - - mills for joint county park district purposes? The rate proposed shall in no event exceed three mills. If a majority of the vote cast thereon is favorable to such levy the board of joint park commissioners shall meet annually during the month of July and at such meeting shall prepare a budget for the ensuing year, estimating and itemizing the expenses and obligations of the joint county park district. Upon completion and adoption of such budget, the board shall make a tax levy in mills, within the limit of the authorization, to meet such budget. Such levy shall be in the form of a resolution adopted by a majority vote of the members of the board and thereafter prior to the first day of July of each year such levy shall be certified to the county auditor of each county within the joint park district by the secretary of the board. At the time of levying taxes for other county purposes, the respective boards of county commissioners of each county within the joint park district shall levy the tax certified by the board of joint park commissioners upon all taxable property in the county in the same manner other taxes are levied. The question of the maximum levy may be submitted from time to time by the board of joint park commissioners."

We should first note that the board of the joint park commissioners through its collective action determines whether or not a question is to be submitted to the counties within the park district. No provision is made that the park commissioner of each county or a majority of the commissioners of each county must approve such proposal before it is submitted.

It is further noted that the statute provides that, "\* \* \* If the majority of the vote cast thereon is favorable \* \* \*." This language does not suggest that the vote must be favorable in each county. The expression, "majority of the vote cast thereon", implies the total number of votes cast rather than the total number of votes cast in each county.

Thus, in direct response to your question, it is our opinion that measures submitted to the electorate under the provisions of Section 11-28-17 of the North Dakota Century Code pertaining to tax levies need not be approved separately by each county within the joint park district, but rather that a favorable majority of all the votes cast will be sufficient to approve the proposal.

HELGI JOHANNESON

Attorney General