

Office of the Attorney General  
State of North Dakota

Opinion No. 82-61

Date Issued: August 13, 1982

Requested by: Ronald G. Splitt  
LaMoure County State's Attorney

--QUESTION PRESENTED--

Whether a board of county commissioners may levy a tax in support of the operation and maintenance of a regional human service center in 1982.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that a board of county commissioners may levy a tax in support of a regional human service center in 1982.

--ANALYSIS--

Section 25-12-02 of the North Dakota Century Code provides for the levy of a tax not in excess of three-quarters of one mill, upon the approval of a majority of voting electors. That section was repealed by 1981 N.D. Sess Laws, 486, § 38. The effective date of the repeal is January 1, 1983.

Section 57-15-04, N.D.C.C., requires that, 'On the fourth Tuesday in July in each year, or within ten days thereafter, the board of county commissioners of each county shall levy the necessary taxes for the current year on taxable property in the county.' Because the levy of taxes in 1982 must take place before the effective date of the repeal of Section 25-12-02, N.D.C.C., the county commission may properly levy the tax if the electors have approved it. The fact that the repeal will be effective before the taxes are due does not lessen the authority to make the levy.

Additionally, a review of the legislative history of House Bill No. 1418, which became 1981 N.D. Sess. Laws 486, reveals that the repeal of Section 25-12-02, N.D.C.C., with an effective date of January 1, 1983, was not an inadvertent act. House Bill No. 1418 originally provided that the effective date of the repeal of

Section 25-12-02 would be January 1, 1982. The effective date was changed to January 1, 1983, for the purpose of allowing the levy to be made in 1982.

--EFFECT--

This opinion is issued pursuant to Section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

Robert O. Wefald  
Attorney General

Prepared by: Blaine L. Nordwall  
Assistant Attorney General