

**OPINION
48-189**

July 13, 1948 (OPINION)

TAXATION

RE: Township Roads - Levy for Surfacing of

Re: Chapter 353, 1947 Session Laws

Your letter of July 12, 1948, regarding township taxation for surfacing roads, has been received and sent to my desk.

It is our opinion that chapter 353 of the 1947 Session Laws provides for a special fund to be used for a specific purposes. Although the legislature does not say so in so many words, it is our opinion that it was the intent of the legislature that this specific fund and the levy therefor of 8 mills were not intended to be limited, or within the limitation, as provided by chapter 360 of the 1947 Session Laws which amends section 57-1520 of the 1943 Revised Code.

Therefore, it is our opinion that the township is authorized, for general purposes, to levy not to exceed ten mills and in addition make a levy for the specific purpose of surfacing roads under the authorization of chapter 353 of the 1947 Session Laws not exceeding eight mills limitation on this specific levy.

You also ask "may a township levy be increased or changed after the annual Meeting in March?"

It is our opinion that ordinarily where the law provides that the township may do certain things at the annual meeting, this provision is directory only and if the township meeting omits to do something that it should have done or if it finds that the tax levy authorized at the township meeting was incorrect or insufficient, a special meeting may be called and the omitted matter taken up or the levy changed to suit the situation. There may be some things that the law directs shall be done at the township meeting and in a few instances such statute must be held to be mandatory and not directory, but it is our opinion that this does not apply in cases where the township has omitted to do something that it should have done and ordinarily would have done had it not been overlooked, or where it finds that the tax levy is insufficient or incorrect, the discrepancy may be cured at a special township meeting.

However, when a special meeting is called, care must be taken to see that the statutory method of calling such a meeting is followed strictly.

WALLACE E. WARNER

Attorney General