

OPINION
59-11

March 13, 1959 (OPINION)

AGRICULTURE

RE: Agricultural Fair Association - Levy for Building
Repair - Election

This is in reply to your letter of March 5, 1959 in regard to aid for the Burke County Fair.

You call our attention to county levies over and above the one-fourth mill levy provided for in section 4-0227 generally and call our attention to the levy provided for in section 4-0232. Your question is stated specifically as: "Can the County Commissioners make a levy over and above the one-fourth mill provided for in section 4-0227 for the purpose of repairing buildings and the construction of new buildings on an existing county fair ground without an election where the fair association has been functioning for a number of years and continuous annual fairs have been held."

Section 4-0232 of the 1957 Supplement would appear to be intended to operate in conjunction with section 4-0231 of the North Dakota Revised Code of 1943. Thus section 4-0232 refers to the purchase or lease price of the land, to making the improvements, to taxes for the erection of the buildings, etc., rather than to purchase or lease price of any land, the making of any improvements the erection of any buildings, etc. In our opinion this would indicate that the land, the improvements, and the buildings referred to are those authorized by the election held pursuant to section 4-0231. We note further that said sections 4-0231 and 4-0232 were both originally enacted as sections 1 and 2 of chapter 102 of the 1919 Session Laws, which would further indicate the relationship between them.

It is perhaps that the election once held under said section 4-0231 authorizes levying of taxes required for land, improvements and buildings necessary for all times in the future. However, noting particularly that section 4-0232 limits installment payments to "five equal annual payments", it is our thought that said section 4-0232 was intended to and does have the effect of authorizing the levy of taxes and the expenditure of general fund moneys only for the original purchase of such land, improvements and buildings, pursuant to the original election therefor. If another election under the provisions of section 4-0231 of the North Dakota Revised Code of 1943 were held, it is of course possible that buildings, etc. could be constructed or rebuilt pursuant thereto.

The only other specific authority we find for county fair aid taxes is of course, section 4-0227 of the North Dakota Revised Code of 1943 and section 4-02271 of the 1957 Supplement both of which require an election. It is therefore our conclusion that your question must be answered in the negative.

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Attorney General