Opinion No. 55-6220

July 8, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. John Humphrey, Jr., Assistant District Attorney, Tenth Judicial District, Fort Sumner, New Mexico

We wish to reply to your letter of June 21st in which you request an opinion from this office concerning the meaning of "general election" in Section 2 of Chapter 224, Laws of 1955. It is our opinion that this term "general election" means the election held in each even numbered year in November. Article 20, Section 6, New Mexico Constitution, reads:

"General elections shall be held in the state on the Tuesday after the first Monday in November in each even numbered year."

We also call your attention to Benson vs. Williams, 56 N.M. 560, 246 Pac. 2d 1046, where the Supreme Court construed the meaning of "general election" in a statute. The New Mexico Supreme Court construed this term to mean the general election held in November of each even numbered year.

As to the difficulty posed by holding that "general election" means the November election of each even numbered year, in applying the law, due to the fact that the tax rolls are customarily prepared in September or October, we call your attention to the fact that Section 2 of Chapter 224, Laws of 1955, amending Section 15-48-13, N.M.S.A., 1953, provides that a special election can be called by the County commissioners in order to allow the people to vote upon the question of special levies to operate a county or a municipally owned hospital. It seems to this office that a special election could be called at such time that it would give the assessor time to prepare the tax rolls and place this special levy upon the tax rolls should it pass. We do not feel that a special levy could be placed on the tax rolls prior to a vote by the people, since the authority for placing such a tax on the roll is an election. We are convinced that until this election is had there could be no levy.

Trusting this will answer your question, we remain

By Paul L. Billhymer

Assistant Attorney General