Opinion No. 65-37

February 26, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Roy G. Hill, Assistant Attorney General

TO: Honorable Alex G. Martinez, State Representative, Santa Fe County, District No. 2, Santa Fe, New Mexico

QUESTION

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House Bill No. 259 proposes that a tax not to exceed four mills may be levied on property, in certain counties, for the purpose of providing an indigent fund. In view of Article VIII, Section 2 of the Constitution of New Mexico, can the vote on the assessment be limited to qualified electors who own real estate within a given county?

CONCLUSION

No.

OPINION

{*63} ANALYSIS

Article VIII, Section 2 of the New Mexico Constitution which sets property tax limits and exceptions provides, in pertinent part, as follows:

"but laws may be passed authorizing additional taxes to be levied outside of such limitation when approved by **at least a majority of the electors of the taxing district** voting on such proposition. . . ."

The emphasized language is clear and unambiguous. It says a majority of the electors of the taxing district must approve a proposition such as provided for in House Bill No. 259.

Section 15-48-13 N.M.S.A., 1953 Compilation (P.S.) which provides for an election on a special tax levy to carry out the purpose set out in Sections 15-48-12 and 15-48-12.1 N.M.S.A., 1953 Compilation (P.S.) provides that the question will be submitted to the qualified electors of the county seeking to increase the tax levy. Attorney General Opinion No. 6492 ruled that Section 15-48-13, supra, did not limit the elections to only those people who have paid property taxes and veterans. In addition, the opinion contained the following language:

"Indeed we are of the opinion that Article VII, Section 2 of the New Mexico Constitution would preclude the Legislature from limiting persons entitled to vote on such special levy to those who own or pay property taxes."

There is no reason at this time to change this opinion. Therefore, as noted above the answer to your question is no.