

January 27, 1948

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ARIZONA ATTORNEY GENERAL**

Honorable E. P. Kiernan,
Mayor, City of Winslow,
Winslow, Arizona

Dear Mr. Kiernan:

We have your letter of January 9, 1948, wherein you request the opinion of this office as to whether or not the City Council of Winslow would be legally justified in calling a special election to submit to the real property taxpayers the question as to whether the city shall issue bonds to raise the money for a street widening program. We understand that the total indebtedness of the city after the bonds had been issued will not exceed 4% of the assessed valuation.

The language of Article 9, Section 8 of the Arizona Constitution is susceptible of the interpretation that the vote of the taxpayers is not necessary where the proposed bonds would not increase the indebtedness of the city beyond the 4% limitation. On the other hand it would seem to appear from Article 7, Section 13 of the Arizona Constitution that all bond elections must be submitted to the real property taxpayers. We have not found a case directly in point although there is some language in the case of Automatic R. M. Co. vs. Pima County, 36 Ariz. 367, 285 Pac. 1034, which would tend to indicate that Article 7, Section 13, requires an election regardless of whether the 4% limitation will be exceeded.

However, we understand your question to be that assuming no election is necessary would the council be justified in submitting the question to the people at a special election. Such procedure seems to be specially authorized by Section 16-2402, Arizona Code Annotated, 1939.

It is our opinion, therefore, that you will be acting clearly within the law in submitting the question to the real property taxpayers, and indeed we would recommend this as the only procedure which is free from question as to its legality.

Very truly yours,

EVO De CONCINI,
Attorney General

CHAS. D. McCARTY,
Assistant Attorney General

CDM:M

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