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November 19, 1987

The Honorable Carol MacDonald
Arizona State Senator
State Capitol - Senate Wing
Phoenix, Arizona 85007

Re: I87-149 (R87-169)

Dear Senator MacDonald:

You have asked whether voter approval is required before a county board of supervisors may levy a tax for various purposes connected with a hospital district. We conclude that voter approval is required to levy a tax for the operation and maintenance of a hospital by a hospital district. However, voter approval is not required to levy a tax for the purpose of paying the principal and interest or replenishing the reserve account of the validly issued bonds of a hospital district.

It is well established that the power to levy a tax is never implied, but must directly and specifically be granted. Maricopa County v. Southern Pacific Company, 63 Ariz. 342, 162 P.2d 619 (1945). The authority to levy taxes for hospital operation and maintenance is contained in A.R.S. § 48-1907(6), which provides:

A hospital district may:

6. Impose a secondary property tax on all taxable property within the district for the purpose of funding the operation and maintenance of a hospital or combined hospital and ambulance service that is owned and operated by the district or to pay costs of an ambulance service contract entered into pursuant to this section. The amount of the levy necessary for the operation and maintenance of the ambulance service shall be separately stated in the levy. Prior to the initial imposition of such a tax a majority of

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the qualified electors voting in a regular or special election must approve such initial imposition. The continued imposition of such a tax must be approved by a majority of the qualified electors voting in a regular or special election at least every five years from the date of the initial imposition.

(Emphasis added).

The authority to impose a tax for the operation and maintenance of a hospital is expressly conditioned upon approval of the voters. However, the same condition was not placed on bond servicing tax levies. Incidentally, a valid bond issue already includes voter approval. A.R.S. § 48-1912(A). The authority to levy taxes for the purpose of servicing bonds is contained in A.R.S. §§ 48-1912(B) and 48-1914(B). A.R.S. § 48-1912(B) states that the board of directors of the district "shall levy a tax" in an amount sufficient to maintain any reserve established in a bond issue. A.R.S. § 48-1914 states, in pertinent part:

A. Annually, not later than July 15, the board of directors shall furnish to the board of supervisors of the county in which the district or any part thereof is located, a report of the operation of the district for the past year together with an estimate in writing of the amount of money needed to be raised by taxation for all purposes required or authorized by this article during the next fiscal year.

B. The board of supervisors of each county where a district or part thereof is located shall thereupon levy upon the taxable property of the district a tax which will, together with other funds on hand or which will accrue during the ensuing fiscal year, exclusive of reserves, provide sufficient funds to meet the obligations of the district. The tax shall be computed, entered upon the tax rolls and collected in the same manner as other secondary property taxes

(Emphasis added).

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Nothing in either statute requires an additional vote to approve the tax levy for servicing validly issued bonds. Neither does the general manner in which a tax is computed, entered on the tax rolls and collected following a bond election include an additional requirement of voter approval. See, e.g. A.R.S. §§ 35-458, 42-201 through -208.

We conclude that voter approval is required for hospital district tax levies. However, the timing of the vote depends on the purpose of the tax levy. Voter approval is required before bonds may be issued, such bonds being repaid by a tax levy. Voter approval is also required prior to imposition of a tax levy for hospital maintenance and operation, and every 5 years thereafter in order to retain such a tax.

Sincerely,



BOB CORBIN
Attorney General

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