

OFFICIAL OPINION NO. 50

June 25, 1952.

Mr. Noble W. Hollar, Chairman,
State Board of Tax Commissioners,
Room 301, State House,
Indianapolis 4, Indiana.

Dear Sir:

Your request for an official opinion reads as follows:

“The Indiana State Board of Tax Commissioners would like for you to render it an Official Opinion concerning the authority to approve a special tax levy to provide a cumulative building or sinking fund to provide funds for the erection of new school buildings and the remodeling of old school buildings under the provisions of the Acts of 1945, chapter 57, page 126 as amended in 1947 (6 B. A. S. (1948 Repl., pt. 2) 28-1108 to 1110).”

The specific questions are as follows:

“1. Is it necessary to have the approval of the State Board of Tax Commissioners under the provisions of the above act *before* a special tax rate for the purpose of providing money for the Building Fund can be advertised and set pursuant to the provisions of the Acts of 1943, ch. 16, sec. 3, p. 35 (11 B. A. S. (1951 Repl., pt. 2) 65-308a) ?

“2. If the procedure of the Acts of 1945, chapter 57, p. 126 as amended in 1947, are complied with and subsequently approved by the State Board of Tax Commissioners after the township advisory board has advertised and adopted all other budgets and tax rates pursuant to the provisions of the Acts of 1943, ch. 16, sec. 3, p. 35, can taxes be calculated and collected on May and November of the next year based on the special tax rate as approved by the Commission?”

1. Section 3, Chap. 16, Acts of 1943 (Burns' Stat. Sec. 65-308a) reads as follows:

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“Adoption of budget and tax rate—Date of annual meeting—Notice.—The date of the annual meeting of township advisory boards for the adoption of the annual budgets and tax rates for townships shall be the last Tuesday in August of each year, and the trustees of every township shall give notice of such meeting as now provided by law: Provided, however, That the first publication shall be made not less than eighteen (18) days prior to such annual meeting.”

Chapter 57, Acts of 1945 as amended by Chap. 248, Acts of 1947, provides for the creation of a building fund for the erection of new school buildings and the remodeling of old school buildings and the levying of taxes. Chapter 57, Acts of 1945 as amended, requires the approval of the State Board of Tax Commissioners before such tax levy can be made. It is noted that Chapter 16, Acts of 1943, fixes a limitation on township advisory boards as of the last Tuesday in August of each year for the adoption of budgets and tax rates.

If we understand your first question, it involves the limiting effect of Chapter 16, Acts of 1943, upon Chapter 57, Acts of 1945 as amended by the Acts of 1947. That is to say, must the proceeding for a cumulative building or sinking fund have the approval of the State Board of Tax Commissioners before the township budget and tax rates are fixed and advertised in accordance with Chapter 16, Acts of 1943.

It appears that Chapter 57, Acts of 1945, as amended, is an act to enable townships to tax themselves for the creation of such cumulative building or sinking fund, and that said act was intended to be supplemental to the provisions of Chapter 16, Acts of 1943; that the taxpayers of a township have the privilege of taxing themselves in addition to any tax levies fixed and advertised as of the last Tuesday in August.

Section 1 of Chapter 248, Acts of 1947 (Burns' Stat. sec. 28-1110) in part reads as follows:

“* * * Such tax rate, after having been approved by the state board of tax commissioners * * * may be levied annually beginning in the first annual tax levy thereafter and continuing for any period not exceeding twelve (12) years and shall be advertised as other tax levies, annually: * * *”

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In my opinion this language means that the tax levy may extend over a period of 12 years, but that the tax levy shall be advertised *each year* of the 12, the same as other tax levies are required to be advertised without regard to the *time* of advertising—However, it is assumed that after the first year, the advertising will all be done at the same time.

Therefore, it is my opinion that it is not necessary to have the approval of the State Board of Tax Commissioners for such Building Fund prior to the last Tuesday in August, but that such proceeding for a Building Fund may have the approval of the State Board of Tax Commissioners at a date subsequent to the last Tuesday in August of any particular year.

2. In view of the foregoing, it is my opinion that your second question should be answered in the affirmative.

OFFICIAL OPINION NO. 51

July 3, 1952.

Mr. Samuel C. Hadden, Chairman,
State Highway Commission of Indiana,
State House Annex,
Indianapolis 9, Indiana.

Dear Sir:

I have your request for an official opinion concerning certain legal aspects of the Hoobler Undercarriage or Mono-trailer. Your request together with the material supplied with it makes it clear that the Hoobler Undercarriage is a device usually used to support the weight on the trailer of a tractor trailer combination. It consists of two (2) axles approximately nine feet (9') apart which support the weight, a large portion of the trailer, from a single point of weight suspension. The first of the two axles may be steered independently and the second axle turns with the carriage.

From the information that you present to me, it is clear that this is a new device which has different attributes of weight suspension and distribution than does an existing system of axles or tandem axles.