

August 4, 2005
OPINION NUMBER 05-0253

Representative Ronnie Johns
District 33
3701 Maplewood Drive, Suite 2
Sulphur, LA 70663

33 ELECTIONS – Special Elections – Tax Bonds

A Gravity Drainage Board is empowered under LSA-R.S. 38:1758 to call a special election and submit to the qualified electors the question of levying a forced contribution or acreage tax hereunder and incurring debt and issuing negotiable bonds secured by the tax, pursuant to R.S. 38:1771.

Dear Representative Johns:

You are requesting an Opinion from this Office concerning the authority of gravity drainage districts to call tax elections pursuant to R.S. 38:1771.

Gravity Drainage Districts are statutorily created under Louisiana Revised Statutes Title 38 Section 1751, *et seq.* Section 1758 establishes the Board of Commissioners empowered to govern and control the district:

§ 1758 Board of commissioners; eligibility

All gravity drainage districts formed or created under the provisions of this Part shall be governed and controlled by five commissioners, who shall be the governing authority of the district or sub-district. These commissioners or their wives must be assessed with real estate in the district to the value of five hundred dollars, or they must be the representative of some corporation owning lands in the district to the value of five hundred dollars. The representative of a corporation may be an officer of the corporation, or may be some person not connected with the corporation as officer or stock holder, but is designated to represent the corporation by a resolution of the board of directors to that effect. Persons possessing the qualifications, or persons thus designated to represent a corporation, may be drainage commissioners, whether they be residents or non-residents. A drainage commissioner may hold the position of drainage commissioner in two or more drainage districts and may hold these positions in addition to any other office that may be held by him, and the holding of position as drainage commissioner shall not be considered in contemplation of law as dual office holding.

You specifically inquired as to whether the Drainage Board, pursuant to R.S. 38:1771, or any other provision of the law, has the authority to call the election or must it request that the parish governing authority call the election.

§ 1771 (Submission to taxpaying voters of question of levying forced contributions or acreage tax) states:

The governing authority of any gravity drainage district or gravity sub-drainage district may call a special election and submit to the qualified taxpaying voters, or submit at any special election in the district called for other purposes, the question of levying a forced contribution or acreage tax hereunder and incurring debt and issuing negotiable bonds secured by the tax. The governing authority shall call a special election for the purpose or purposes when requested so to do by the petition in writing of one-fourth of the property taxpayers eligible to vote at the election. The election may be held on the same date and at the same election places as other elections, general or special, are held. The election shall be ordered by resolution which shall state the purpose for which the debt is to be incurred, the amount of the debt, the maximum number of years for which the bonds are to run, and the maximum rate of interest.(Emphasis added)

As stated above, the Commission is the “governing authority” of the drainage district, and as such, is empowered to call a special election.

I hope this opinion has adequately addressed your question. If you need any further information, please do not hesitate to contact this office.

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By:

WILLIAM P. BRYAN, III
Assistant Attorney General

CCF, Jr./WPB, III/sfj

SYLLABUS
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William P. Bryan, III
Assistant Attorney General