

**OPINION
43-49**

January 18, 1943 (OPINION)

ELECTIONS

RE: Cities

Your letter of January thirteenth wherein you inquire whether or not it would be possible to hold your special election to fill a vacancy and also an election to increase the tax levy has been considered.

I see no reason why the two elections may not be held on the same date. However, it will be necessary for you to issue two notices of election, as each election is entirely separate and distinct from the other, and, of course, each will have to be on a separate ballot.

There is a very serious question as to whether an election to increase the levy may be held at any time except from the date that the budget is made up and until September first of the year. Under Section 13, Chapter 235, Session Laws of 1929, the law permits the resolution to be made at any time prior to August first in any year by a two-thirds vote of the members of the board. It then provides that such election shall be held not later than September first of the year in which the tax is to be levied. Since the budget is not prepared until the fourth Wednesday in July, in many instances it would not be possible to determine that the levy at the maximum rate would be insufficient until after that meeting. However, you have not specifically asked for an opinion on that point and I am not going to express myself definitely on that matter.

ALVIN C. STRUTZ
Attorney General