

Tax Levies Outside the Ten Mill Limitation*

The Constitution and laws of Ohio embrace limitations upon the power of the local government units to levy taxes and to create or incur indebtedness. Of course a tax limitation may operate as a debt limitation,¹ but these two types of restrictions should be distinguished.

The Ohio Constitution does not contain any provisions which set a specific limitation upon indebtedness of the subdivisions, but it does specifically provide that the legislature shall enact debt limitations for municipalities' general laws.² The legislature has passed general laws which provide limitations upon the net indebtedness³ of municipalities⁴ and other local government units.⁵

The Constitution does contain a specific tax limitation, in part as follows:

No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes. . . .⁶

The General Code expressly adopts this ten mill limitation.⁷

The Constitution authorizes and the legislature has provided two methods by which taxes may be levied beyond the ten mill limitation.⁸ One statute provides that a home rule charter municipality is exempted from the general tax limitation if the charter provides for a limitation of the total tax rate.⁹ Another statute provides that taxes may be levied outside the ten mill limitation if 65% of the electors voting on a proposed levy vote in favor thereof.¹⁰

* This is a discussion of Amended Substitute Senate Bill No. 63, an emergency measure, effective April 6, 1949.

¹ See *State v. Kountz*, 129 Ohio St. 272, 194 N. E. 869 (1935).

² OHIO CONST. Art. XIII, §6; Art. XVIII, §13.

³ Net indebtedness is defined in OHIO GEN. CODE §§2293-13. See also OHIO GEN. CODE §§2293-14, 2293-17 (1937).

⁴ OHIO GEN. CODE §2293-14 (1937).

⁵ OHIO GEN. CODE §§2293-15, 2293-16, and 2293-17 (1937).

⁶ OHIO CONST. Art. XII, §2.

⁷ OHIO GEN. CODE §5625-2 (1945).

⁸ "but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation." OHIO CONST. Art. XII, §2.

⁹ OHIO GEN. CODE §5625-14 (1945); *State ex rel. Thomas v. Heuck*, 49 Ohio App. 436, 197 N. E. 376 (1934).

¹⁰ OHIO GEN. CODE §5625-18 (1945). For certain specific exceptions, see OHIO GEN. CODE §5625-7 (1945).

A levy for current expenses of schools or municipal universities can be

The 98th General Assembly passed an emergency measure, Amended Substitute Senate Bill No. 63, to modify during 1949 and 1950 the provisions governing submission to the electors of a proposal to levy taxes outside the ten mill limitation. This act provides that the taxing authority¹¹ of any subdivision¹² other than a school district¹³ may declare by resolution the necessity of levying a tax beyond the ten mill limitation. The proposed tax may be for any of the purposes identified in Section 5625-15 of the General Code or to supplement general fund appropriations for relief, welfare, hospitals, health, and hospitalization. The resolution must conform to the requirements of Section 5625-15 except that the proposed levy may not be for a period longer than two years.

The act provides that the question may be submitted to the electors at a general, primary or special election to be held at a time specified in the resolution.¹⁴ Not more than one special election for the submission of such a question may be held in any one calendar year. A special election may not be held during the 30 days immediately preceding or following a general or primary election, but a special election may be held on the same day a primary election is held.¹⁵

The vote requirements have been reduced by the new act. If 60% of the electors voting on the question at a primary or special election approve, or if 55% of such electors at a general election vote in favor of such a levy, the taxing authority of the subdivision may forthwith make the levy outside the ten mill limitation. The levy would then be included in the next annual tax budget that is certified to the county budget commission.¹⁶

After the approval of a levy and before the first tax collection from the levy, the taxing authority may anticipate the proceeds by issuing anticipation notes in an amount not exceeding 50% of the total estimated proceeds. Anticipation notes would be sold as provided in the Uniform Bond Act.¹⁷ C. W. D.

made upon approval of a majority of the electors voting on such proposal. The 98th General Assembly passed a separate act concerning school levies which require approval by 60% of the electors voting. Amended Senate Bill No. 37, effective April 6, 1949. See School Districts, Part II *infra*. See also Amended Substitute Senate Bill No. 195, effective October 25, 1949.

¹¹ Defined in OHIO GEN. CODE §5625-1 (1945).

¹² *Ibid.*

¹³ See Amended Senate Bill No. 37; note 10, *supra*.

¹⁴ The election must be held from 25 days to 120 days after the adoption and certification to the board of elections of the resolution.

¹⁵ Other matters with respect to the election will be governed by OHIO GEN. CODE §5625-17 (1945).

¹⁶ OHIO GEN. CODE §§5625-19 *et seq.* (1945).

¹⁷ OHIO GEN. CODE §2293-1 *et seq.* (1937).