

LEVY ALTERNATIVES

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I. INTRODUCTION

Ohio School Districts, unlike Ohio municipalities, do not have "home rule" power under the Ohio Constitution. In matters of finance, School Districts are entirely subject to the control of the state legislature. The Ohio Revised Code ("R.C.") strictly limits the ways in which School Districts can levy taxes and borrow money. R.C. 5705.02 limits unvoted property taxes to ten mills (1% of taxable value).

Despite these limitations, School Districts have a variety of options for funding both operating expenses and permanent improvements. This outline provides an overview of levy alternatives available to School Districts. Sample ballots corresponding to the alternatives discussed below can be found in the appendix.

This outline is intended for educational purposes, and should not be construed as legal advice. Because the nuances of statutes and the particulars of School Districts dictate the exact language required for a levy alternative, each School District should consult with counsel to select the alternative appropriate for its particular needs.

II. R.C. 5705.21 – TRADITIONAL PROPERTY TAX LEVY

R.C. 5705.21 permits the Board of Education to submit to the voters a property tax levy that specifies a rate of millage. That rate and renewals thereof are subject to the reduction factor of R.C. 319.301 (H.B. 920); therefore, School Districts using such a levy will only benefit from new construction, not from the inflationary growth of their tax base over the life of the levy.

- A. Term; Purpose. The tax may be approved for a maximum of five years or for a continuing period of time. The levy may serve any one of the following purposes:
1. current expenses of the School District;
 2. a public library supported by the School District;
 3. a specific permanent improvement¹ or class of permanent improvements that the School District could include in a single bond issue;
 4. recreational purposes;
 5. acquiring and operating community centers;
 6. operating a cultural center apart from a public school building;
 7. general permanent improvements²;
 8. school safety and security; or
 9. providing education technology.³

¹ R.C. 5705.01 defines "permanent improvement" as any capital asset with a useful life, as determined by the school treasurer, of five years or more.

² Permanent improvement levies may last for a continuing period only if they pay for "general permanent improvements."

B. Election proceedings. The procedural steps to place a traditional levy on the ballot are as follows:

1. Resolution of necessity - The Board of Education declares the necessity of the levy; specifies whether additional, renewal or replacement; specifies Revised Code section authorizing submission; specifies mills and amount per hundred dollars of valuation; and specifies election date. Two-thirds vote of all members of the Board of Education required.
2. County Auditor's certification – Under 5705.03, the County Auditor determines the total current tax valuation and the dollar amount of revenue the levy will generate in the first year of collection.
3. Resolution to proceed - The Board of Education determines to proceed with the levy; reiterates foregoing information; provides ballot form, including specific language if imposed in the current tax year, e.g. "commencing in _____, first due in calendar year _____." Two-thirds vote of all members of the Board of Education required.

All of the foregoing documents must be certified to the Board of Elections not less than ninety (90) days prior to the date of the election.⁴

C. Anticipatory Notes. The statute provides for the issue and sale of tax anticipation notes following voter approval of the new levy. For operating purposes, the maximum amount available to be borrowed by the Board of Education is fifty percent of the estimated proceeds of the levy during its first year. For permanent improvement purposes, the maximum amount available to be borrowed by the Board of Education is fifty percent of the estimated proceeds of the levy during the life of the levy, unless the levy is continuing, in which case the maximum amount is fifty percent of the levy's proceeds over a maximum of ten years.⁵

D. Limitations on submission to voters. Under R.C. 5705.214, the Board of Education is limited to three elections per year for the submission of any combination of tax levies under: R.C. 5705.194 (emergency levies); 5705.199 (substitute emergency property tax levy); 5705.21 (operating levies); 5705.212 or 5705.213 (incremental levies); 5705.217 (combined operating and permanent improvement levy); 5705.218 (bond issue with levy or combined levy); 5705.219 (conversion levy); and 5748.09 (combined income tax and property tax levy).

³ "Education technology" means, but is not limited to, computer hardware, equipment, materials, and accessories, equipment used for two-way audio or video, and software.

⁴ R.C. 3501.01 provides that election dates generally are the first Tuesday after the first Monday in May (Primary), August (Special) and November (General). In presidential election years, the May election is moved to the second Tuesday in March. Prepayment for 65% of the cost of a special election is required. Note that the May election could be a special election if there are no contested candidate races.

⁵ In connection with the issuance of notes in anticipation of the levy and collection of a permanent improvement levy, after the School District has spent the proceeds of the notes, a Board of Education having a traditional permanent improvement levy for a fixed term or a continuing period may apply to the Superintendent of Public Instruction under R.C. 5705.216 for permission to issue additional tax anticipation notes for an amount equaling the balance of the taxes to be collected less the amount of money required to pay the principal and interest on the first issue of notes and interest on the second issue of notes.

- E. Renewals. An existing levy under R.C. 5705.21 may be renewed in whole or in part, or coupled with an increase, at the general election prior to the last year of collection or at any election in the last year of collection. Two or more existing levies may be renewed as a single levy at the primary⁶ or general election prior to the last year of collection of at least one of the levies, or at any election in the last year of collection. A time-limited permanent improvement levy may be renewed for a continuing period of time. A renewal levy reimposes the effective rate of the existing levy.
- F. Replacements. Under R.C. 5705.192, an existing levy (other than an emergency levy) may be replaced in whole or in part, or coupled with an increase, at the general election prior to the last year of collection or at any election in the last year of collection. Only two existing levies may be replaced by a single levy, if both are for the same purpose and either both expire in the same year or both are continuing. Replacement of a continuing levy may be at any election in any year after the year the levy is first approved, but only one such election can be held during any calendar year. Failure of replacement of a continuing levy does not terminate the existing continuing levy. A time-limited permanent improvement levy may be replaced for a continuing period of time. A replacement levy reimposes the voted rate of the existing levy, subject to the reduction factor of R.C. 319.301 just as a new levy would be.
- G. Rollback. Under R.C. 319.302, the state reimburses School Districts and other political subdivisions for real property taxes for “qualifying levies” as follows: (1) Non-Business Credit – 10% reduction in tax for residential and agricultural property; and (2) Owner Occupancy Credit – an additional 2½% reduction in tax for owner occupied residential property. After September 29, 2013, the following levies are not “qualifying levies” within the meaning of R.C. 319.302: (1) new levies; (2) replacement levies; and (3) the increase portion of a renewal levy combined with an increase.

III. R.C. 5705.194 – TRADITIONAL EMERGENCY PROPERTY TAX LEVY

R.C. 5705.194 permits the Board of Education to submit to the voters a property tax levy that specifies a dollar amount to be generated each year the levy is in effect. That dollar amount does not change during the life of the levy; rather, the millage is adjusted to account for changes in tax valuation resulting from reappraisal or new construction.

- A. Term; Purpose; Election proceedings. The tax may be approved for a maximum of ten years. The resolution of necessity for an emergency property tax levy must: (1) provide that the levy is for the emergency requirements of the School District or to avoid an operating deficit; and (2) be approved by a vote of the Board of Education and certified to the County Auditor not less than eighty days prior to the date of the election. The County Auditor is required to calculate and certify to the Board of Education the annual levy amount expressed in both mills for each dollar of valuation and in dollars and cents for each hundred dollars of valuation, throughout the life of the levy, that will be required to produce the annual amount set forth in the resolution of necessity assuming that the tax valuation of the School District remains throughout the life of the levy the same as the amount of the tax valuation for the current year. If the Board of Education desires to

⁶ A "primary" election is defined as an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties and as delegates and alternates to the conventions of political parties. A primary does not necessarily occur each year.

proceed, it may, not less than ninety (90) days prior to the date of the election, certify a resolution determining to proceed, along with the County Auditor's estimate of the required millage, to the Board of Elections. The resolution to proceed should include the ballot form required under R.C. 5705.197, including specific language if imposed in the current tax year (e.g., "commencing in _____, first due in calendar year _____"). It is considered the best practice for such resolutions to be passed by a majority of the members of the Board of Education.

- B. Renewals. An existing emergency levy may be renewed in whole or in part, and coupled with an increase, at a special (other than February or August) or general election prior to the last year of collection or at any election in the last year of collection. Two or more existing emergency levies may be renewed as a single levy if they expire in the same year. Such renewal may be in whole or in part and may be coupled with an increase.
- C. Anticipatory Notes. R.C. 5705.194 provides for the issuance and sale of tax anticipation notes following voter approval of the emergency levy. The maximum amount available to be borrowed by the Board of Education is the proceeds estimated for the first year of the levy. The notes may be retired over a period of up to five years.

IV. R.C. 5705.199 – SUBSTITUTE EMERGENCY PROPERTY TAX LEVY

R.C. 5705.199 permits a Board of Education that currently levies at least one emergency levy to submit to the voters a levy to substitute for all or a portion of one or more existing emergency levies (the "substituted levies"). The new levy would, in its first year, be levied in an amount equal to the aggregate proceeds derived from the substituted levies. In subsequent years, the new levy would be levied at a rate equal to the dollar proceeds from the year prior *plus* a dollar amount equal to the product of the levy's prior-year millage rate multiplied by the increased value to real property created by construction in the school district during the current year. As with a traditional emergency levy, a substitute levy will not be subject to the R.C. 319.301 (H.B. 920) tax reduction factors.

- A. Term; Purpose; Election proceedings. The tax may be approved for a number of years not exceeding ten, or a continuing period of time. The resolution of necessity for a substitute levy must specify (1) the annual dollar amount the levy is to produce in its initial year; (2) the first calendar year in which the levy will be due; and (3) the term of the levy. If the substitute levy relates to two or more substituted levies that are not scheduled to expire in the same year, the resolution must also specify that the existing levies to be substituted shall not be levied after the year preceding the year in which the substitute levy is first imposed. The resolution of necessity must be approved by a two-thirds vote of the Board of Education and certified to the County Auditor. The County Auditor is required to calculate and certify to the Board of Education the annual levy expressed in both mills for each dollar of valuation and in dollars and cents for each hundred dollars of valuation, throughout the life of the levy, that will be required to produce the annual amount set forth in the resolution of necessity, assuming that the tax valuation of the School District remains throughout the life of the levy the same as the amount of the tax valuation for the current year. If the Board of Education desires to proceed, it may, not less than ninety (90) days prior to the date of the election, certify a resolution determining to proceed, along with the County Auditor's estimate of the required millage, to the Board of Elections. The resolution to proceed should include the ballot form required under R.C. 5705.199.

- B. Renewals. At any time, a substitute emergency levy passed for a term of years may be renewed in whole or in part as another substitute levy. Such levy will technically be referenced as a “substitute for a substitute” rather than a “renewal” levy.
- C. Anticipatory Notes. R.C. 5705.199 provides for the issuance and sale of tax anticipation notes following voter approval of the substitute levy. The maximum amount available to be borrowed by the Board of Education is fifty percent of the total estimated first year's levy proceeds. The notes may be retired over a period of up to five years.

V. **R.C. 5705.212 – INCREMENTAL PROPERTY TAX LEVY**

R.C. 5705.212 permits the Board of Education to submit to the voters a property tax levy with incremental increases to be "phased in" over the life of the levy. The initial rate of the tax is termed the "original tax." The original tax may be increased by one or more increments, defined as "incremental taxes." If there is more than one increment, the rate of the increments must be identical but need not be the same as the rate of the original tax.

Taxes levied under R.C. 5705.212 are subject to the reduction factor discussed above. According to the Ohio Department of Taxation, however, the reduction factor will be applied separately to the original tax and to each incremental tax as it is placed on the tax duplicate, thus permitting the School District to receive some of the benefits of inflationary growth.

- A. Term; Purpose; Election proceedings. Incremental taxes may be approved for a continuing period of time or for a limited number of years up to ten. Each increment is proposed as a separate rate of taxation, which will expire, at the latest, on the expiration of the original tax. A maximum of five increments may be proposed as part of any one tax levy. The increments will be added, as provided in the resolution of necessity, in each of the stated years. The election proceedings are similar to those of a traditional levy.
- B. Renewals. Incremental taxes, if proposed for a limited number of years, may be submitted to the voters for renewal⁷ in the same fashion as other expiring property tax levies. The renewal rate is the original rate combined with each increment to represent a single rate of taxation for renewal and may not exceed the combined rate of the original and incremental taxes. Renewal may be proposed for not greater than ten years or for a continuing period of time.
- C. Ballot form. The form of the ballot for the submission of tax issues under R.C. 5705.212 is prescribed by R.C. 5705.251.
- D. Anticipatory Notes. Voter approval of original taxes or the renewal of such taxes includes authorization for the Board of Education to borrow up to fifty percent of the estimated first year's proceeds. The anticipatory notes may be retired over a period of up to five years.

⁷ R.C. 5705.212 does not provide for replacement.

VI. R.C. 5705.213 – PROPERTY TAX LEVY INCREASING BY DOLLAR OR PERCENTAGE

R.C. 5705.213 permits the Board of Education to submit to the voters property taxes for a specific amount of money each year, which may be increased by a dollar or percentage over the prior year's amount. Taxes levied under R.C. 5705.213 are not subject to the reduction factor but, like emergency levies, will not produce more than the specified dollar amounts.

- A. Term; Purpose. This property tax is for current expenses only and is limited to a maximum of ten years. It is presented to the voters as a tax to raise a specific dollar amount of money during the first year of the levy. Increases in years after the first year may be presented to the voters as dollar amounts of increases or a percentage increase over the prior year's amount.
- B. Election proceedings. The resolution of necessity for a property tax levy under R.C. 5705.213 must be approved by a vote of two-thirds of all members of the Board of Education and certified to the County Auditor not less than ninety-five (95) days prior to the date of the election. The County Auditor is required, as in the case of the emergency levy, to calculate and certify to the Board of Education the estimated levy expressed in both mills for each dollar of valuation and in dollars and cents for each hundred dollars of valuation for each year the levy is to be in effect. If the Board of Education desires to proceed, it may, not less than ninety (90) days prior to the date of the election, certify its resolution along with the County Auditor's estimate of the tax levy to the Board of Elections. The form of the ballot is prescribed by R.C. 5705.251.
- C. Renewals. A tax levied under R.C. 5705.213 may be renewed upon expiration. The renewal rate of the tax may not exceed the rate levied during the last year the tax is in effect prior to the renewal. Renewal can be for a maximum of ten years or for a continuing period of time. Renewal issues must first be certified to the County Auditor in the same fashion as initial levies.
- D. Anticipatory Notes. The statute provides for the issuance and sale of tax anticipation notes following voter approval of the new levy. The maximum amount available to be borrowed by the Board of Education is fifty percent of the estimated first year's levy proceeds. The notes may be retired over a period of up to five years.

VII. R.C. 5705.211 – STATE FUNDING FORMULA CHARGE-OFF PROPERTY TAX LEVY

R.C. 5705.211 permits a Board of Education to submit to the voters the question of levying a property tax to offset the loss of basic state aid (the funding formula charge-off) resulting from the appreciation of real estate values within the School District.

- A. Term; Purpose. This property tax is levied for the purpose of paying the current operating expenses of the School District. The question of the tax is not submitted to voters as a specified sum or rate, but instead proposes that the tax be levied "at a rate sufficient to offset any reduction in basic state funding caused by appreciation in real estate values." The tax may be levied for a term of years (not fewer than five) or for a continuing period of time.

- B. Election proceedings. A Board of Education must comply with the procedures set forth by R.C. 5705.03 with regard to passage of a resolution declaring the necessity of the tax. Such resolution must then be certified to the County Auditor. If the Board of Education desires to proceed, it may pass the resolution authorizing the levy of the charge-off property tax, which is then certified to the Board of Elections not less than ninety (90) days prior to the date of the election. The resolution to proceed must state the purpose of the tax, the first year in which the tax is to be levied, and the term. The tax cannot be certified for a levy on the current tax list and duplicate. The question may be placed on the ballot at a general or special election; the resolution must state the particular election at which the question will appear. It is considered the best practice for such resolutions to be passed by a majority of the members of the Board of Education.
- C. Levy rate. A Board of Education is to obtain data from the Ohio Department of Education to determine the applicable charge-off increase on which to base the estimated proceeds of the levy. After the first year of the levy, the estimated additional tax in any one year shall not exceed the previous year's tax by more than four percent, or a lesser percentage if so specified within the resolution proposing the tax, excluding increases caused by the addition of new taxable property.⁸ The Board of Education is to certify the sum to be collected to the County Auditor before October 1, and the County Auditor must certify the corresponding rate as long as such rate does not exceed the four percent (or lesser) limitation.

VIII. R.C. CHAPTER 5748 – SCHOOL DISTRICT INCOME TAX

R.C. 5748.02 permits the Board of Education, except a Board of Education of a Joint Vocational School District, to submit to the voters the question of levying a School District income tax on personal income of the residents⁹ of the School District, regardless of where they are employed, and any estate income in the School District. Business income is not taxed. If approved, a School District income tax may be used for School District purposes.¹⁰

- A. Employers' duties. Employers are required to retain on file the School District in which employees reside, and there is no penalty or incentive to verify if information provided is correct. An individual not filing or paying the School District income tax will be penalized under the same provisions covering failure to file or pay the State income tax.
- B. Parallels to State income tax. The income subject to tax and reporting requirements for School District income taxes piggybacks the income subject to State income tax filings. Consequently, few additional computations or filings are required.

⁸ R.C. 5705.211(C) permits a Board of Education by resolution to reduce the percentage specified in the resolution levying the tax at any time following voter approval.

⁹ Unless the individual elects to be a non-resident taxpayer under R.C. 5747.25.

¹⁰ R.C. 5748.01 defines "school district purposes" to include: providing for current expenses, making any specific permanent improvements or class of permanent improvements, making general, ongoing permanent improvements, providing education technology, operating a cultural arts center, supporting a public library, providing for recreational purposes, and acquiring property for, constructing, operating, and maintaining community centers. It is important to note that the Ohio Department of Taxation has concluded that School District income taxes may not be directly used to pay debt service on bonds or notes of the School District (except, of course, where the notes are issued in anticipation of the collection of the income tax).

- C. Taxable income. The tax is imposed upon either Ohio adjusted gross income and the estate income of deceased school district residents, or on earned income only.¹¹ R.C. 5748.02(E) prohibits the simultaneous taxation of both the Ohio adjusted gross income and the earned income of school district residents. Once the Board of Education selects the category of income to be taxed and the tax levy is approved by voters, the Board cannot subsequently propose that an additional income tax be imposed on residents of the School District on the alternative category of income.
- D. Election proceedings. The procedural steps to place an income tax on the ballot are as follows:
1. Resolution requesting alternative tax rates - The Board of Education must adopt (separately for each election) a Resolution requesting certification of alternative tax rates and specifying which type of income will be subject to tax to produce the amount of funds the School District seeks annually for School District purposes. The resolution must be forwarded to the Tax Commissioner no later than one hundred (100) days prior to the election.
 2. Tax Commissioner certification - The Tax Commissioner must certify the following within ten days of receipt of the Resolution Requesting Certification: 1) the income tax rate necessary to obtain the funds needed; and 2) the property tax rate necessary to accomplish the same.
 3. Resolution to proceed - Following certification by the Tax Commissioner, the Board of Education, if it so desires, may adopt a Resolution Determining to Proceed with the Income Tax in order to place the income tax, rounded to the nearest quarter percent, on the ballot. The proposed levy may be for a specified number of years or for a continuing period of time. Passage of the Resolution Requesting Certification alone does not obligate the Board of Education to pass the Resolution to Proceed. The Resolution to Proceed must be adopted and certified to the Board of Elections at least ninety (90) days prior to the election date. The Board of Education cannot place on the ballot an income tax rate lower or higher than that certified by the Tax Commissioner. The Board of Education can always choose to place on the ballot a property tax at any desired rate (regardless of the rate certified by the Tax Commissioner).
- E. Limitations on submission to voters. Under R.C. 5748.02(D) the Board of Education is limited to two elections per calendar year for submitting a School District income tax to its electors. If the Board of Education does submit the question twice in a calendar year, one of the elections must be the November (general) election.
- F. Effective Date. The effective date of a School District income tax is January 1 of the calendar year specified by the Board of Education and may include the year following the date of election.

¹¹ Ohio adjusted gross income includes both earned income (wages, salaries, tips, self-employment) and unearned income (interest, dividends, capital gains and retirement benefits). Earned income includes only wages, salaries, tips, other compensation and earned income from partnerships and self-employment, all to the extent included in Ohio adjusted gross income. Earned income does not include distributive shares of profit from an S corporation.

- G. Increases. Increases in the income tax rate must follow the above-outlined procedures, but do not require repeal of the current rate.
- H. Board-initiated Decreases. The Board of Education may pass a resolution reducing the rate of the income tax by a multiple of one-fourth of one percent. The effective date shall be the first January 1 occurring sixty days after certification of such resolution to the Tax Commissioner.
- I. Renewals. An expiring income tax, or income taxes expiring on the same date, may be renewed and so labeled on the ballot, provided the rate being proposed is the same. There is no limit on how early a renewal income tax may be placed on the ballot.
- J. Conversions (Replacements). An existing School District income tax, regardless of whether time-limited or continuing and regardless of whether approved singly or in combination with a bond issue, may at any time be converted from "all income" to "earned income only" upon voter approval. The amount of annual revenue to be produced may be the same, or more or less than, the amount raised annually by the existing tax. The term of the replacement income tax may be for a specific number of years or continuing, but the replacement income tax must have the same purpose as the existing income tax. Failure of replacement of an existing income tax does not terminate the existing income tax.
- K. Advantages. Advantages of School District Income Tax over Property Taxes:
1. it tends to have the people using the School District (residents as opposed to businesses or non-resident taxpayers) pay the bill;
 2. it reduces the burden on fixed income families;
 3. it allows for growth as incomes increase; and
 4. the estimated proceeds of the income tax are not included in the ballot language, only the rate of tax.
- L. Disadvantages. Disadvantages of School District Income Tax Compared to Property Taxes:
1. businesses not subject to tax;
 2. high income families may pay more than if a property tax were levied;
 3. the cost of collection is higher (the State assesses a 1.5% administrative fee);
 4. School Districts lose interest income due to the method of collection (the State makes quarterly payments and, during the first year of the income tax, pays the School District over an eighteen month period);
 5. city officials may oppose it because it infringes on the municipality's traditional revenue source;

6. there are no penalties for employers to force compliance;
 7. revenue is more difficult to project because an income tax fluctuates with the income levels of the taxpayers; and
 8. the State and Federal Governments have the ability, in part, to control revenue through revision of their income tax laws and regulations.
- M. Combination with property tax rollback. Some School Districts have combined passage of a School District income tax with a rollback of property tax millage. If desired, the Board of Education may reduce property tax millage in one of three ways:
1. the Board of Education may annually adopt a resolution notifying the County Auditor of the millage to be reduced (identified by specific levy);
 2. the Board of Education may seek voter approval of the reduction of a specific amount of millage; or
 3. the Board of Education may propose, as a single ballot issue, the simultaneous imposition of a continuing School District income tax and a reduction in the rate of one or more continuing property tax levies for current expenses.

The obvious difference is that in the first option the Board of Education retains the power to reduce millage as needed and, theoretically, keeps the School District off the ballot for a longer period of time. Although this is a good business approach given the uncertainty of School District income tax collections, it may not be politically possible. With respect to the third option, the following should be noted: (1) the Certification of Alternative Tax Rates must include information regarding the reduction of property tax millage; and (2) if the School District income tax is later repealed, the property tax millage is restored at the rate at which it could be levied prior to the voted reduction in connection with the income tax, subject to adjustment by the county auditor.

- N. Twenty mill floor. It should be noted that, for purposes of the school foundation program, under R.C. 3317.01 and 3317.021, if the current operating millage before reduction factors falls below twenty mills, an equivalent millage for the income tax is calculated by the Tax Commissioner and used toward the twenty mill requirement.
- O. Anticipatory Notes. Tax anticipation notes may be issued following voter approval of a School District income tax prior to the time when the first payment to the School District from the tax can be made. The maximum amount available to be borrowed by the Board of Education is fifty percent of the total estimated proceeds of the tax to be collected for its first year of collection as estimated by the Tax Commissioner.¹² The notes may be retired over a period of up to five years.
- P. Income Tax Backed Bonds. If approved for the Ohio School Facilities Commission (OSFC) Classroom Facilities Assistance Program (CFAP), a School District may issue income-tax backed bonds under R.C. 3318.052 to fund the local share. Such bonds may

¹² The elasticity of the income tax causes the collection estimates to change. Do not assume early estimates are fixed.

be general obligation bonds (i.e. backed by the full faith and credit of the School District) and thus may not require a debt service reserve fund or a high cash flow debt service coverage requirement. Income-tax backed bonds have a maximum maturity of twenty-three years. The portion of the School District income tax necessary to pay the debt service on such bonds cannot be repealed as long as the debt is outstanding, but any remainder is subject to repeal.

IX. R.C. 718.09 – JOINT MUNICIPAL/SCHOOL DISTRICT INCOME TAX

R.C. 718.09 and 718.10 permit a municipal corporation, or group of municipal corporations acting separately but consistently, to propose to their electors an income tax, one of the purposes of which shall be to provide financial assistance to the school district through payment of not less than twenty-five percent of the revenue generated by the tax.

- A. Congruency requirements. Boundaries need to meet at least one of two congruency requirements:
 - 1. not more than five percent outside the other either way, School District versus municipal corporation(s);
 - 2. more than five percent, but not more than ten percent of the School District is located outside the municipal corporation, and that portion outside located entirely within another municipal corporation having a population of 400,000 or more.
- B. Nonresident individuals. Not subject to tax.
- C. Agreement. Prior to proposing the income tax, the School District and municipality shall enter into an agreement specifying the following:
 - 1. tax rate;
 - 2. percentage of tax revenue to be paid to School District;
 - 3. purpose for which School District will use the payment;
 - 4. first year of levy of tax;
 - 5. date of election on proposal; and
 - 6. method and schedule by which the municipal corporation will make payments to the School District.

X. COMBINED BALLOT QUESTIONS

School Districts are authorized to seek voter approval of a single combined ballot question involving: (1) an operating levy and a permanent improvement levy; (2) a bond issue and an operating levy or a permanent improvement levy, or both; (3) a bond issue and an income tax levy for School District purposes (operating, permanent improvement, or both); or (4) an income tax levy for School District purposes and a property tax levy (operating, permanent improvement, or both).

- A. Combined operating and permanent improvement levy. R.C. 5705.217 permits a School District¹³ to submit to its voters a combined property tax for current operating expenses

¹³ R.C. 5705.217 does not specifically authorize Joint Vocational School Districts to submit combined levies. Under R.C. 3311.21, Joint Vocational School Districts have authority to combine in one ballot question an operating levy

and general permanent improvements. The election proceedings for such a tax levy are similar to those of a traditional levy, except they must apportion the annual rate of the tax between current operating expenses and permanent improvements. Such apportionment is not required to be the same for each year of the tax, but the respective portions of the rate actually levied each year are limited by the apportionment. However, the respective tax rates actually levied each year for operating expenses and permanent improvements will be limited by the apportionment set forth in the resolution which, once set, cannot be changed. The levy may last for a fixed period of time (from one to five years) or for a continuing period of time if the tax is for current operating expenses or for general permanent improvements.

- B. Bond issue with levy or combined levy. R.C. 5705.218 permits a School District to submit to its voters, as a single ballot question, the question of issuing general obligation bonds and levying a property tax outside the ten mill limitation for a specified number of years or for a continuing period of time for the purpose of paying for current operating expenses, general permanent improvements or both. A combined bond/levy question may only be submitted to the voters three times during any calendar year (R.C. 5705.214). The maintenance obligation for an OSFC project may be funded with proceeds of the levy.
- C. Combined operating and permanent improvement income tax. R.C. 5748.02 permits a School District to submit to its voters a combined income tax for current operating expenses and permanent improvements. The election proceedings for such an income tax are similar to those of a single-purpose income tax, except they must apportion the annual rate of the tax between current operating expenses and permanent improvements. Such apportionment is not required to be the same for each year of the tax, but the respective portions of the rate actually levied each year are limited by the apportionment. However, the respective tax rates actually levied each year for operating expenses and permanent improvements will be limited by the apportionment set forth in the resolution which, once set, cannot be changed. The levy may be for a specified number of years or a continuing period of time.
- D. Bond issue with income tax or combined income tax. R.C. 5748.08 permits a School District to submit to its voters, as a single ballot question, the question of issuing general obligation bonds and levying an income tax for a specified number of years or for a continuing period of time for School District purposes, paying for current operating expenses, general permanent improvements or both. A two-thirds vote of the Board of Education is required for the resolutions, and the resolution of necessity must be certified to the County Auditor and the State Tax Commissioner no later than one hundred five (105) days before the election. A combined bond/income tax question may only be submitted to the voters twice during any calendar year and, if submitted twice, one of the submissions must be at the November (general) election.
- E. Combined income tax and property tax levy. R.C. 5748.09 permits a School District to submit to its voters, as a single ballot question, the question to levy an income tax and a dollar-based property tax. The income tax may be for current operating expenses, general

and a levy for certain permanent improvements. As with combined levies under R.C. 5705.217, however, an apportionment between purposes is required.

permanent improvements or both. The property tax is for the necessary requirements of the School District.

The property tax may be for a maximum of ten (10) years or for a continuing period of time. The income tax may be for any specified number of years or a continuing period of time.¹⁴ A two-thirds vote of the Board of Education is required for the resolutions, and the resolution of necessity must be certified to the County Auditor and the State Tax Commissioner not later than one hundred (100) days before the special election. A combined income tax and property tax question may be submitted to the voters only twice in a calendar year. If a board submits the question twice, one of the elections must be held on the date of the November (general) election. As with a traditional emergency property tax levy, a property tax levied pursuant to R.C. 5748.09 is not subject to the R.C. 319.301 (H.B. 920) tax reduction factors.

- F. OSFC. R.C. 3318.06 and 3318.056 permit a bond issue to fund the local share and a twenty-three year maintenance levy for an OSFC project to be combined with select bond and levy alternatives to fund any permanent improvements or generate operating revenue specifically for the School District's OSFC facilities, all as a single ballot question.

XI. R.C. 5705.261, 5748.04 – REDUCTIONS/ELIMINATIONS

The ability of School District electors to propose change by petition is extremely limited, particularly when viewed in comparison to the myriad of taxpayer-driven municipal proposals permitted by statute or charter. The Ohio Revised Code uses varying terminology in its discussion of taxpayer action by petition, including "initiative," "referendum" and the descriptive word "repeal." See, e.g., R.C. 5748.04. However, for clarity and ease of discussion, voter actions to reduce or eliminate tax levies by petition are classified here as reductions or eliminations.

- A. Reduction in Property Tax Levy. R.C. 5705.261 sets forth the procedure for initiating a decrease of a property tax levy that was approved for a "continuing period of time" (meaning that it is an ongoing property tax levy that does not terminate on a specified date).
 - 1. The petition must propose the question of decreasing (not eliminating) the increased rate of a property tax levy that was approved for a continuing period of time.
 - a) The Ohio Supreme Court held in State ex rel. Choices for South-Western City Schools v. Anthony, 108 Ohio St. 3d 1 (2005), that *a referendum under R.C. 5705.261 cannot completely eliminate a continuing property tax levy*. As the dissent noted, the Court's logic presumably means that voters could petition for a reduction to .000001 mills as long as the levy was not completely eliminated.
 - b) The Ohio Supreme Court held in State ex rel. Taxpayers for Westerville Schools v. Franklin Cty. Bd. Of Elections, 133 Ohio St. 3d 153 (2012),

¹⁴ Pursuant to R.C. 5748.09(I), a School District may also submit a combined income tax and property tax question to renew existing income tax and property tax levies if the last calendar year the income tax is in effect and the last calendar year of the property tax collection are the same.

that a replacement levy was not an “increased rate of levy” for purposes of R.C. 5705.261. Rate of levy refers to the *rate of millage approved* by taxpayers, not the *effective rate*.

2. The petition must state the amount of the proposed decrease in the property tax levy.
3. The petition must be signed by "qualified electors"¹⁵ equal in number to at least ten percent of the votes cast in the School District for the governor at the most recent election for the governor's office.¹⁶
 - a) If a county board of elections miscalculates the number of signatures required to meet the ten percent requirement and thus refuses to place the petition on the ballot, the petition may still be placed on the ballot of a later election, even if the election at which the petition was originally to be voted on has already occurred. State ex rel. Citizens for Responsible Taxation v. Scioto County Board of Elections, 67 Ohio St. 3d 134 (1993). To preserve this option, however, supporters of the petition must file a writ of mandamus prior to the earlier election, and the board of elections must stipulate to its error. State ex rel. Residents' Initiative Voting Alliance v. Cuyahoga County Board of Elections, 108 Ohio St. 3d 125 (2005).
4. The petition must then be filed with the county board of elections at least ninety (90) days¹⁷ before the *general election*.¹⁸ If it determines that the petition is valid and proper in all respects, the board of elections must place the issue on the ballot at the next general election.
5. R.C. 5705.261 requires the Ohio Secretary of State to prescribe the form of the ballot for a reduction of a property tax levy. In practice, this means that the county board of elections submits a proposed form of the ballot to the Secretary of State, and the form of the ballot is then approved or denied.¹⁹
6. If the reduction in a property tax levy is approved, the county auditor must begin collecting the levy at the reduced rate *after the current tax year*.
 - a) This means that a reduction in a property tax levy will not go into effect until a year after the election where it was reduced. For example, if a continuing property tax levy is passed in November 2006, it may go on the property tax bills for the current tax year (sent out in December 2006)

¹⁵ Defined in R.C. 3501.01(N) as those persons entitled to vote under Ohio law.

¹⁶ R.C. 3501.38 and 3501.39 contain the procedural requirements for a proper petition as well as the method for challenging a petition before a county board of elections.

¹⁷ The petition must be filed by 4:00 p.m. ninety (90) days before the day of the general election. R.C. 3501.02(F).

¹⁸ A "general election" is the election held on the first Tuesday after the first Monday of each November. R.C. 3501.01(A).

¹⁹ The Secretary of State's practice of approving ballot language, as opposed to prescribing ballot language, was permitted in Youngstown Board of Education v. Mahoning County Board of Elections, 1989 Ohio App. LEXIS 4950, 22 (7th Dist. 1989). While not explicitly condoning the practice, the court refused to reject a petition on these grounds.

if provided for in the ballot language. However, if the same levy is reduced at the following general election in November 2007, the reduction will not be reflected on tax bills until December 2008. See 1986 Ohio Op. Atty Gen. No. 21 (1986).

- b) Exception If notes have been issued in anticipation of the collection of a property tax levy that is subsequently reduced by referendum, the county auditor must continue to levy and collect (under authority of the election authorizing the original levy) such amounts as will be sufficient to pay the principal of and interest on such anticipation notes as they come due. The remainder of the property tax levy is reduced.

7. *Only one such petition to reduce a continuing property tax levy may be filed during each five-year period following the election at which the levy was approved.*

- a) Because of this restriction, some School Districts have initiated levy reductions as a defensive measure. For example, a School District might circulate a petition to reduce a continuing property tax levy by .000001 mills. If the School District can successfully place the issue on the ballot, it will prevent voters from asking for a larger reduction during that same five-year period, even if the reduction fails to win voter approval.

8. The Revised Code provides no exception for the reduction of a levy with proceeds intended for non-operating purposes. For instance, a continuing permanent improvement levy with millage earmarked to fund a School District's maintenance obligation under an OSFC program remains subject to reduction pursuant to R.C. 5705.261, despite the School District's obligation to fund maintenance to qualify for state assistance.

B. Elimination of an Income Tax. R.C. 5748.04 provides the procedural steps for placing on the ballot the question of eliminating a School District income tax that is levied for *more than five years*. School District income taxes may be levied for any number of years or for a continuing period of time. Note that while property tax levies can only be reduced and not completely abolished under R.C. 5705.261, a School District income tax cannot be reduced but can only be eliminated under R.C. 5748.04.²⁰

- 1. The petition must propose the question of "repealing" (i.e., eliminating) a School District income tax that was levied for more than five years.
- 2. The petition must be signed by qualified electors equal in number to at least ten percent of the votes cast in the School District for the governor at the most recent election for the governor's office.

²⁰ Also note that under R.C. 3318.052, if the School District's authorizing legislation has covenants to use income tax to pay the debt charges on and financing costs related to securities issued to pay for a School District's basic project costs for the Classroom Facilities Assistance Program of the Ohio School Facilities Commission, that income tax cannot be fully eliminated while the debt is outstanding. To the extent that the income tax exceeds the amount required for debt charges, that portion may be eliminated, rounded to the nearest quarter percent.

3. The petition must then be filed with the county board of elections at least ninety (90) days before the *general election* in any year after the year in which the voters approved the income tax. The board of elections must place the issue on the ballot at the next general election if it determines that the petition is valid and proper in all respects.
 4. R.C. 5748.04 specifies the form of the ballot for an income tax repeal.
 5. Only one such petition to eliminate an income tax may be filed during any five-year period.
- C. Income Tax Repeal with Property Tax Rollback. If the rate of one or more property tax levies was reduced for the duration of the income tax, the form of the ballot must be modified to indicate that the property tax levies will increase to their original millage rate. If the income tax repeal is successful, the School District may resume levying the property tax at the rate at which it could be levied prior to the voted reduction due to the income tax. However, because R.C. 5748.04 permits the amount of the millage increase to be discretionary, it is unclear whether the School District could resume only part of the property tax millage or must resume "all or nothing." It should be noted that any resumed property tax would not be set back to the voted rate or the effective rate for that millage at the time of the imposition of the income tax. Rather, because the property tax is still considered "on the books" during the duration of the income tax, a reduction factor is calculated for the tax every year regardless of how much of the millage is actually levied. This remains true even if the School District completely eliminates a property tax as part of a combined income tax/property tax reduction ballot question. If the rate of a property tax increases due to the repeal of the School District income tax pursuant to R.C. 5748.04, for the first year the rate increases, the Tax Commissioner must compute the percentage as if the tax in the preceding year had been levied at the rate at which the tax was authorized to be levied prior to any rate reduction.
- D. Five-year limitation. Under both R.C. 5705.261 (reducing a property tax levy) and R.C. 5748.04 (eliminating an income tax), only one such petition under each section may be filed with the county board of elections during a five-year period. There is currently no clear guidance in Ohio law on whether this five-year limitation is triggered simply by filing a petition (even if the board of elections rules it to be invalid and refuses to place the petition on the ballot) or if it means that a petition must be valid to be considered "filed." Each individual county board of elections must decide what to do when faced with this dilemma, and the Ohio Secretary of State's advice to boards of elections is that they should consult with their county prosecutor and follow his or her advice. It is therefore possible that a county board of elections would refuse to place a valid petition on the ballot because a defective petition had already been filed in the five-year period.²¹

²¹ Note that the county board of elections can only accept petitions that are facially valid. Therefore, a petition that was clearly short of the required number of signatures or that possessed another facially obvious defect could not even be filed with a board of elections. Such a facially invalid petition would not serve to trigger the five-year limitation.

APPENDIX: SAMPLE BALLOTS

The following are sample ballots associated with the levy alternatives discussed above. In some cases, the language of the ballot is dictated by statute, while, in others, the School District has discretion to craft its own ballot language. Because the nuances of statutes and the particulars of School Districts dictate the exact language required for a levy alternative, each School District should consult with counsel to select the proper one.

Levy Alternatives

Traditional Property Tax Levy	R.C. 5705.21	Sample Ballot 1
Traditional Emergency Property Tax Levy	R.C. 5705.194	Sample Ballot 2
<ul style="list-style-type: none"> • Emergency Levy Renewal with Increase • Combining Emergency Levies 	R.C. 5705.194	Sample Ballot 3A Sample Ballot 3B
Substitute Emergency Property Tax Levy		
<ul style="list-style-type: none"> • Substituting for a Single Emergency Levy • Substituting for Two or More Emergency Levies 	R.C. 5705.199	Sample Ballot 4A Sample Ballot 4B
Incremental Property Tax Levy		
<ul style="list-style-type: none"> • Single Incremental Increase • More than One Incremental Increase 	R.C. 5705.212	Sample Ballot 5A Sample Ballot 5B
Property Tax Levy Increasing by Dollar or Percentage	R.C. 5705.213	Sample Ballot 6
State Funding Formula Charge-Off Property Tax Levy	R.C. 5705.211	Sample Ballot 7
School District Income Tax		
<ul style="list-style-type: none"> • School District All Income Base • Earned Income Only Base 	R.C. 5748.02	Sample Ballot 8A Sample Ballot 8B
Joint Municipal/School District Income Tax		
<ul style="list-style-type: none"> • Single Municipality • Group of Municipalities 	R.C. 718.09	Sample Ballot 9A Sample Ballot 9B

Bond Issues

Voted Bonds	R.C. 133.18	Sample Ballot 10
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Combined Initiatives

Combined Operating/Permanent Improvement Levy	R.C. 5705.217	Sample Ballot 11
Bond Issue Combined with Permanent Improvement and Operating Levies	R.C. 5705.218	Sample Ballot 12
Combined Operating/Permanent Improvement Income Tax	R.C. 5748.02	Sample Ballot 13
Bond Issue Combined with Income Tax	R.C. 5748.08	Sample Ballot 14
Combined Income Tax and Property Tax	R.C. 5748.09	Sample Ballot 15
Ohio School Facilities Commission Voted Bonds	R.C. 3318.06	Sample Ballot 16

SAMPLE BALLOT 1
R.C. 5705.21

(Traditional Property Tax Levy)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to levy an additional property tax for the purpose of providing for [insert purpose clause¹] for the School District, at a rate not exceeding _____ (____) mills for each one dollar of valuation, which amounts to _____ cents (\$____) for each one hundred dollars of valuation, for [insert "____ (____) years" or "a continuing period of time"] commencing in 20__, first due in calendar year 20__?

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

1 – If the levy is for the purpose of operating a cultural center, the ballot must state that the levy is "for the purpose of operating the [insert name of cultural center]."

SAMPLE BALLOT 2
R.C. 5705.194

(Emergency Property Tax Levy)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall a levy be imposed by the XYZ School District, XYZ County, Ohio for the purpose of **providing for the emergency requirements of the School District¹**, in the sum of _____ dollars (\$____) and a levy of taxes to be made outside of the ten-mill limitation estimated by the county auditor to average ____ (____) mills for each one dollar of valuation, which amounts to _____ cents (\$____) for each one hundred dollars of valuation, for a period of ____ (____) years, commencing in 20__, first due in calendar year 20__?

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

1 – The purpose for which the tax is to be levied must be printed in boldface type of at least twice the size of the type immediately surrounding it.

SAMPLE BALLOT 3A

R.C. 5705.194

(Emergency Levy Renewal with Increase)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall a levy renewing _____ dollars (\$ _____) and providing an increase of _____ dollars (\$ _____) be imposed by the XYZ School District, XYZ County, Ohio for the purpose of **providing for the emergency requirements of the School District¹**, in the sum of _____ dollars (\$ _____) and a levy of taxes to be made outside of the ten-mill limitation estimated by the county auditor to average _____ (____) mills for each one dollar of valuation, which amounts to _____ cents (\$ _____) for each one hundred dollars of valuation, for a period of _____ (____) years, commencing in 20____, first due in calendar year 20____?

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

¹ – The purpose for which the tax is to be levied must be printed in boldface type of at least twice the size of the type immediately surrounding it.

SAMPLE BALLOT 3B

R.C. 5705.194

(Combining Emergency Levies)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall a levy renewing ____ existing levies be imposed by the XYZ School District, XYZ County, Ohio for the purpose of **providing for the emergency requirements of the School District¹**, in the sum of _____ dollars (\$ _____) and a levy of taxes to be made outside of the ten-mill limitation estimated by the county auditor to average _____ (____) mills for each one dollar of valuation, which amounts to _____ cents (\$ _____) for each one hundred dollars of valuation, for a period of _____ (____) years, commencing in 20____, first due in calendar year 20____?

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

¹ – The purpose for which the tax is to be levied must be printed in boldface type of at least twice the size of the type immediately surrounding it.



SAMPLE BALLOT 4A

R.C. 5705.199

(Substitute Emergency Property Tax Levy substituting for a single emergency levy)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall a levy substituting for an existing levy be imposed by the XYZ School District, XYZ County, Ohio for the purpose of providing for the necessary requirements of the school district in the initial sum of _____ dollars (\$_____), and a levy of taxes be made outside of the ten-mill limitation estimated by the county auditor to require _____ (____) mills for each one dollar of valuation, which amounts to _____ cents (\$____) for each one hundred dollars of valuation for the initial year of the tax, for a period of for [insert "____ (____) years" or "a continuing period of time"], commencing in 20____, first due in calendar year 20____, with the sum of such tax to increase only if and as new land or real property improvements not previously taxed by the school district are added to its tax list?

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

SAMPLE BALLOT 4B

R.C. 5705.199

(Substitute Emergency Property Tax Levy substituting for two or more emergency levies)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall a levy substituting for existing levies be imposed by the XYZ School District, XYZ County, Ohio for the purpose of providing for the necessary requirements of the school district in the initial sum of _____ dollars (\$_____), and a levy of taxes be made outside of the ten-mill limitation estimated by the county auditor to require _____ (____) mills for each one dollar of valuation, which amounts to _____ cents (\$____) for each one hundred dollars of valuation for the initial year of the tax, for a period of for [insert "____ (____) years" or "a continuing period of time"], commencing in 20____, first due in calendar year 20____, with the sum of such tax to increase only if and as new land or real property improvements not previously taxed by the school district are added to its tax list?

If approved, any remaining years on any of the [insert number of levies being substituted] existing levies will not be collected after [insert applicable tax year].

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY



SAMPLE BALLOT 5A

R.C. 5705.212

(Incremental Property Tax Levy with only a single incremental increase)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to levy taxes for current expenses, the aggregate rate of which may increase in one increment of not more than ____ () mills for each dollar of valuation, which amounts to _____ cents (\$) for each one hundred dollars of valuation? The original tax is first proposed to be levied in 20__, and the incremental tax in 20__. The aggregate rate of tax so authorized will [insert "expire with the original rate of tax which shall be in effect for ____ () years" or "be in effect for a continuing period of time"], commencing in 20__, first due in 20__.

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

SAMPLE BALLOT 5B

R.C. 5705.212

(Incremental Property Tax Levy with more than one incremental increase)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to levy taxes for current expenses, the aggregate rate of which may increase in ____ () increments of not more than ____ () mills for each dollar of valuation, which amounts to _____ cents (\$) for each one hundred dollars of valuation? The original tax is first proposed to be levied in 20__, the first incremental tax in 20__, the second incremental tax in 20__, the third incremental tax in 20__, and the fourth incremental tax in 20__ [remove increments if necessary]. The aggregate rate of tax so authorized will [insert "expire with the original rate of tax which shall be in effect for ____ () years" or "be in effect for a continuing period of time"], commencing in 20__, first due in 20__.

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

SAMPLE BALLOT 6

R.C. 5705.213

(Property Tax Levy Increasing by Dollar or Percentage)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to levy the following tax for current expenses? The tax will first be levied in 20__ to raise _____ dollars (\$ _____). In the ____ () following years the tax will increase by not more than [insert dollar amount or percentage] each year, so that, during [insert last year of the tax], the tax will raise approximately _____ dollars (\$ _____). The County Auditor estimates that the rate of the tax per dollar of valuation will be ____ mills, which amounts to _____ cents (\$ _____) per one hundred dollars of valuation, during [insert first year of the tax] and ____ () mills, which amounts to _____ cents (\$ _____) per one hundred dollars of valuation, during [insert last year of the tax]. The tax will not be levied after tax year 20__. The levy will be in effect for ____ years, commencing in 20__, first due in 20__.

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY



SAMPLE BALLOT 7

R.C. 5705.211

(State Funding Formula Charge-Off Property Tax Levy)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to levy an additional tax for the purpose of paying the current operating expenses of the district, for [insert "____ (__) years" or "a continuing period of time"], at a rate sufficient to offset any reduction in basic state funding caused by appreciation in real estate values? This levy will permit variable annual growth in revenue up to ____ per cent (__%) for the duration of the levy.

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

SAMPLE BALLOT 8A

R.C. 5748.02

(School District Income Tax – School District All Income)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall an annual income tax of ____ percent (__%) on the school district income of individuals and of estates be imposed by XYZ School District, XYZ County, Ohio, for [insert "____ (__) years" or "a continuing period of time"], beginning [Month and day], 20__, for the purpose of [insert purpose clause]?

	FOR THE TAX
	AGAINST THE TAX

SAMPLE BALLOT 8B

R.C. 5748.02

(School District Income Tax – Earned Income Only)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall an annual income tax of ____ percent (__%) on the earned income of individuals residing in the school district be imposed by XYZ School District, XYZ County, Ohio, for [insert "____ (__) years" or "a continuing period of time"], beginning [Month and day], 20__, for the purpose of [insert purpose clause]?

	FOR THE TAX
	AGAINST THE TAX



SAMPLE BALLOT 9A

R.C. 718.09

*(Joint Municipal/School District Income Tax:
Single Municipality)*

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the ordinance providing for a ____ percent (__%) levy on income for [insert brief description of the municipal corporation and school district purposes of the levy], with ____ per cent (__%) of the tax revenues being paid to XYZ School District, XYZ County, Ohio, be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in [insert name of the municipal corporation].

	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

SAMPLE BALLOT 9B

R.C. 718.10

*(Joint Municipal/School District Income Tax:
Group of Municipalities)*

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the ordinance providing for a ____ per cent (__%) levy on income for [insert brief description of the municipal corporation and school district purposes of the levy], with ____ percent (__%) of the tax revenues being paid to XYZ School District, XYZ County, Ohio, be passed? The income tax, if approved, will not be levied on the incomes of individuals who do not reside in [insert name of the municipal corporation]. In order for the income tax to be levied, the voters of [insert names of the other municipal corporations in the group], which are also in the XYZ School District, must approve an identical income tax and agree to pay the same percentage of the tax revenue to the school district.

	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

SAMPLE BALLOT 10

R.C. 133.18

(Voted Bonds)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall bonds be issued by the XYZ School District, XYZ County, Ohio for the purpose of [insert purpose clause, in boldface type] in the principal amount of _____ dollars (\$ _____), to be repaid annually over a maximum period of ____ (__) years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue ____ (__) mills for each one dollar of tax valuation, which amounts to _____ cents (\$ __) for each one hundred dollars of tax valuation, commencing in 20__, first due in calendar year 20__, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	FOR THE BOND ISSUE
	AGAINST THE BOND ISSUE



SAMPLE BALLOT 11

R.C. 5705.217

(Combined Operating/Permanent Improvement Levy)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

An additional tax for the benefit of XYZ School District, XYZ County, Ohio for the purpose of providing for current operating expenses at a rate not exceeding _____ (____) mills, and for general permanent improvements at a rate not exceeding _____ (____) mills, to constitute a combined rate not exceeding _____ (____) mills for each one dollar of valuation, which amounts to _____ cents (\$____) for each one hundred dollars of valuation, for [a continuing period of time/five years] commencing in 20____, first due in calendar year 20____.

	FOR THE TAX LEVY
	AGAINST THE TAX LEVY

SAMPLE BALLOT 12

R.C. 5705.218

(Bond Issue Combined with Permanent Improvement and Operating Levies¹)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to do the following:

(1) Issue bonds for the purpose of [insert purpose clause], in the principal amount of _____ dollars (\$____), to be repaid annually over a maximum period of _____ (____) years, and levy a property tax outside the ten mill limitation, estimated by the County Auditor to average over the bond repayment period ____ (____) mills for each one dollar of tax valuation, which amounts to _____ cents (\$____) for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

(2) Levy an additional property tax to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements at a rate not exceeding _____ (____) mills for each one dollar of tax valuation, which amounts to _____ cents (\$____) for each \$100 of tax valuation, for [insert "____ (____) years"² or "a continuing period of time"]?

(3) Levy an additional property tax to pay current operating expenses at a rate not exceeding _____ (____) mills for each one dollar of tax valuation, which amounts to _____ cents (\$____) for each \$100 of tax valuation, for [insert "____ (____) years" or "a continuing period of time"]?

	FOR THE BOND ISSUE AND LEVY
	AGAINST THE BOND ISSUE AND LEVY

1 – To combine a bond issue with only a permanent improvements levy, remove section (3). To combine a bond issue with only an operating levy, remove section (2)
2 – R.C. 5705.218(I) provides that an ELPP school district choosing to fund maintenance up front may have a 23-year levy.



SAMPLE BALLOT 13

R.C. 5748.02

*(Combined Operating and Permanent Improvement
Income Tax)*

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall an annual income tax of _____ percent (____%) on the [insert "school district income of individuals and of estates" *or* "earned income of individuals residing in the school district"] be imposed by XYZ School District, XYZ County, Ohio, for [insert "____ (__) years" *or* "a continuing period of time"], beginning [month and day], 20__, for the purpose of providing for current operating expenses and [insert permanent improvements clause]?

	FOR THE TAX
	AGAINST THE TAX

SAMPLE BALLOT 14

R.C. 5748.08

(Bond Issue Combined with Income Tax)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to do both of the following:

(1) Impose an annual income tax of _____ percent (____%) on the [insert "school district income of individuals and of estates" *or* "earned income of individuals residing in the school district"] for [insert "____ (__) years" *or* "a continuing period of time"], beginning [month and day] 20__, for the purpose of [insert purpose clause]?

(2) Issue bonds for the purpose of [insert purpose clause], in the principal amount of _____ dollars (\$____), to be repaid annually over a maximum period of _____ (____) years, and levy a property tax outside the ten-mill limitation estimated by the county auditor to average over the bond repayment period ____ (____) mills for each one dollar of tax valuation, which amounts to _____ cents (\$____) for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	FOR THE INCOME TAX AND BOND ISSUE
	AGAINST THE INCOME TAX AND BOND ISSUE



SAMPLE BALLOT 15

R.C. 5748.09

(Combined Income Tax and Property Tax)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall the XYZ School District, XYZ County, Ohio be authorized to do both of the following:

(1) Impose an annual income tax of _____ percent (____%) on the [insert "school district income of individuals and of estates" *or* "earned income of individuals residing in the school district"] for [insert "____ (____) years" *or* "a continuing period of time"], beginning [month and day] 20____, for the purpose of [insert purpose clause]?

(2) Impose a property tax levy outside of the ten-mill limitation for the purpose of providing for the necessary requirements of the district in the sum of _____ dollars (\$____), estimated by the county auditor to average _____ mills for each one dollar of valuation, which amounts to _____ cents (\$____) for each one hundred dollars of valuation, for [insert "____ (____) years" *or* "a continuing period of time"], commencing in _____, first due in calendar year _____?

	FOR THE INCOME TAX AND PROPERTY TAX
	AGAINST THE INCOME TAX AND PROPERTY TAX

SAMPLE BALLOT 16

R.C. 3318.06¹

(OSFC Voted Bonds)

AFFIRMATIVE VOTE IS NECESSARY FOR PASSAGE

Shall bonds be issued by the XYZ School District, XYZ County, Ohio to pay the local share of school construction under the State of Ohio Classroom Facilities Assistance Program in the principal amount of \$_____, to be repaid annually over a maximum period of _____ years, and an annual levy of property taxes be made outside the ten-mill limitation, estimated by the county auditor to average over the repayment period of the bond issue _____ (____) mills for each one dollar of tax valuation, which amounts to _____ (\$____) cents for each one hundred dollars of tax valuation to pay the annual debt charges on the bonds and to pay debt charges on any notes issued in anticipation of the bonds?

and

Shall an additional levy of taxes be made for a period of twenty-three (23) years to benefit the XYZ School District, XYZ County, Ohio the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project, at the rate of one-half (0.50) mill for each one dollar of valuation?

and/or

Shall bonds be issued by the XYZ School District, XYZ County, Ohio to pay costs of acquiring a site for classroom facilities² under the State of Ohio Classroom Facilities Assistance Program in the principal amount of \$_____ to be repaid annually over a maximum period of _____ years, and an annual levy of property taxes be made outside of the ten-mill limitation, estimated by the County Auditor to average over the repayment period of the bond issue _____ (____) mills for each one dollar of tax valuation, which amount to _____ (\$____) cents for each one hundred dollars of tax valuation to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?³

and

Shall an additional levy of taxes outside the ten-mill limitation be made for the benefit of the XYZ School District, XYZ County, Ohio for the purpose of acquiring a site for classroom facilities in the sum of \$_____ estimated by the County Auditor to average _____ (____) mills for each one hundred dollars of valuation for a period of _____ years?

	FOR THE BOND ISSUES AND TAX LEVIES
	AGAINST THE BOND ISSUES AND THE TAX LEVIES

1 - R.C. 3318.062 also provides that a school district participating in CFAP may issue bonds incrementally to pay for the project.

2 - Bonds under this section also are used to finance "locally funded initiatives."

3 - Acquisition of CFAP sites may also be funded through the passage of a permanent improvement levy.



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LEVY CAMPAIGN OPTIONS AND COMMUNITY ENGAGEMENT

WHICH OPTION IS BEST FOR YOUR DISTRICT?

- There are so many levy options – you need to start early in the decision making process
- Long before any levy discussion – have financial practices in place . Is there a contingency fund? How many days cash balance on hand? Should the levy be just big enough to cover this cycle, or help right size the next levy?
- Have a treasurer advisory committee (community members) in place. They can help with the above questions and validate the need for the levy.
- Constant discussions of finances and value with the community – coffees, house meetings, PTA's. Don't come out of nowhere with a levy.
- Levy type and amount discussion by the board should come after above discussions

STRUCTURE:

- Conduct a survey (use a 3rd party) to help with messaging
- The use of a levy consulting firm brings a great deal of experience to the campaign. They can help with structure, strategy, messaging, timing, budgeting
- Use a grass roots organization, neighbor talking to neighbor.
- The community needs to own the campaign. A community supporter should lead the effort and recruit the team. As a board member – always have your eyes open to which district committee members might be good levy campaign leaders
- A team made up of community members, staff and administrators provides a good cross representation of the district. Remember to get advice from past levy leaders
- Start with a leader in each building who will recruit other volunteers. Give them clear direction of their duties and a reasonable commitment. A volunteer coordinator is needed to hold them accountable to their commitment
- Weekly breakfast meetings with the building leaders create a sense of community and provide the chance to discuss questions and concerns
- A good fundraiser is needed, with a realistic view of money needed to run the campaign

MESSAGE:

Clear objectives: what will happen, what will not happen, set the message, simplify the financials

Get the facts straight. Make sure each volunteer is coached on the 30 second speech regarding the importance of the levy

. Validate what will happen if the increase is not achieved.

- Show that practical prioritization of services on a logical needs basis has been done.

- Make the lack of increase effects personal to each building.

- Validate that other financing approaches, like bonds, have been fully utilized.

- Demonstrate that curricula is at a level in line with the expectations of the community

-Live up to levy expectations – if levy fails – you must eliminate what was said to maintain trust

Emphasize valid use of school buildings, staff and other things that help the public, not just the children. Hope that your district actually seeks out such public server opportunities.

GET THE MESSAGE OUT TO THE COMMUNITY:

Arm your workforce

- Get building by building volunteer groups and arm them with all the above info.

- Anticipate questions of the nature of "couldn't you just..."

- Provide a resource for volunteer groups to deal with questions or rumors

-Concentrate on getting the message to school supporters

-Levy buttons and yard sign requests are great conversation starters

Research has shown best money spent is on mailings and postage. Do your research and send to targeted lists

Be sure to organize weekly letters to the editor

Go to the rotary and other local groups (retirees groups, etc) and tell your story.

Hope that the district has a community outreach to rotary, etc and that this is not the only time they see the district.

Canvass, canvass, canvass. Reminder calls the day before the election are helpful, but remember with early voting it is now election "month". Remember to thank the voters after!

Year in and year out – levy or not – the district needs to get their message out to the community. Let the community know the great things going on, explain the finances, meet the staff, be at community events, provide opportunities in the buildings for community members.

ELECTION FILING DEADLINES

2016

Prepared By



Bricker & Eckler
ATTORNEYS AT LAW

<u>Type of Ballot Issue</u>	<u>Election Date</u>			<u>Action Required</u>
	<u>March 15, 2016</u>	<u>August 2, 2016</u>	<u>November 8, 2016</u>	
1. R.C. 5705.21 Levy (Operating or Permanent Improvement)	* December 16, 2015	* May 4, 2016	* August 10, 2016	File resolution of necessity with county auditor File election proceedings with board of elections
2. R.C. 5705.194 Emergency Levy	* December 16, 2015	* May 4, 2016	* August 10, 2016	File resolution of necessity with county auditor File election proceedings with board of elections
3. R.C. 5748 Income Tax (Stand-alone or combined with Property Tax)	December 2, 2015 December 16, 2015	April 22, 2016 May 4, 2016	July 29, 2016 August 10, 2016	File resolution of necessity with state tax commissioner** File election proceedings with board of elections
4. R.C 133.18 Voted Bond Issue	* December 16, 2015 November 16, 2015	* May 4, 2016 April 4, 2016	* August 10, 2016 July 11, 2016	File resolution of necessity with county auditor File election proceedings with board of elections*** File State Consent application****
5. R.C. 5748.08 Voted Bond Issue combined with an Income Tax	December 1, 2015 December 16, 2015	April 19, 2016 May 4, 2016	July 26, 2016 August 10, 2016	File resolution of necessity with state tax commissioner***** File election proceedings with board of elections

* The Resolution of Necessity must be filed with the County Auditor with enough time for calculation of: (1) the estimated revenue from the levy in the first year; or (2) the millage necessary to raise a certain amount of revenue; and make such calculation available not later than 90 days prior to the election date.

** Resolution of Necessity must also be filed with County Auditor by this date if combined with Property Tax.

*** If a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation, the election proceedings must be filed with the State Department of Education and Department of Taxation at least **98 days before the election date** to ensure that the Superintendent of Public Instruction and State Tax Commissioner certify their consent 90 days before the election date.

**** Required if a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation. In addition, the State Department of Education has advised that if the School District is required to obtain designation as a "Special Needs" district (net indebtedness in excess of 12% of its tax valuation), the School District must file the application for Special Needs designation prior to, or concurrently with, the filing of the State Consent application.

***** The Resolution of Necessity for a combined bond issue with income tax must be filed with the Tax Commissioner and County Auditor 105 days prior to the election date.

ELECTION FILING DEADLINES

2017

Prepared By



<u>Type of Ballot Issue</u>	<u>Election Date</u>			<u>Action Required</u>
	<u>May 2, 2017</u>	<u>August 8, 2017</u>	<u>November 7, 2017</u>	
	<u>Filing Deadlines</u>			
1. R.C. 5705.21 Levy (Operating or Permanent Improvement)	* February 1, 2017	* May 10, 2017	* August 9, 2017	File resolution of necessity with county auditor File election proceedings with board of elections
2. R.C. 5705.194 Emergency Levy	* February 1, 2017	* May 10, 2017	* August 9, 2017	File resolution of necessity with county auditor File election proceedings with board of elections
3. R.C. 5748 Income Tax (Stand-alone or combined with Property Tax)	January 20, 2017 February 1, 2017	April 28, 2017 May 10, 2017	July 28, 2017 August 9, 2017	File resolution of necessity with state tax commissioner** File election proceedings with board of elections
4. R.C 133.18 Voted Bond Issue	* February 1, 2017 December 30, 2016	* May 10, 2017 April 10, 2017	* August 9, 2017 July 10, 2017	File resolution of necessity with county auditor File election proceedings with board of elections*** File State Consent application****
5. R.C. 5748.08 Voted Bond Issue combined with an Income Tax	January 17, 2017 February 1, 2017	April 25, 2017 May 10, 2017	July 25, 2017 August 9, 2017	File resolution of necessity with state tax commissioner***** File election proceedings with board of elections

* The Resolution of Necessity must be filed with the County Auditor with enough time for calculation of: (1) the estimated revenue from the levy in the first year; or (2) the millage necessary to raise a certain amount of revenue; and make such calculation available not later than 90 days prior to the election date.

** Resolution of Necessity must also be filed with County Auditor by this date if combined with Property Tax.

*** If a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation, the election proceedings must be filed with the State Department of Education and Department of Taxation at least **98 days before the election date** to ensure that the Superintendent of Public Instruction and State Tax Commissioner certify their consent 90 days before the election date.

**** Required if a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation. In addition, the State Department of Education has advised that if the School District is required to obtain designation as a "Special Needs" district (net indebtedness in excess of 12% of its tax valuation), the School District must file the application for Special Needs designation prior to, or concurrently with, the filing of the State Consent application.

***** The Resolution of Necessity for a combined bond issue with income tax must be filed with the Tax Commissioner and County Auditor 105 days prior to the election date.

ELECTION FILING DEADLINES

2018

Prepared By



<i>Type of Ballot Issue</i>	<i>Election Date</i>			<i>Action Required</i>
	<u>May 8, 2018</u>	<u>August 7, 2018</u>	<u>November 6, 2018</u>	
	<i>Filing Deadlines</i>			
1. R.C. 5705.21 Levy (Operating or Permanent Improvement)	* February 7, 2018	* May 9, 2018	* August 8, 2018	File resolution of necessity with county auditor File election proceedings with board of elections
2. R.C. 5705.194 Emergency Levy	* February 7, 2018	* May 9, 2018	* August 8, 2018	File resolution of necessity with county auditor File election proceedings with board of elections
3. R.C. 5748 Income Tax (Stand-alone or combined with Property Tax)	January 26, 2018 February 7, 2018	April 27, 2018 May 9, 2018	July 27, 2018 August 8, 2018	File resolution of necessity with state tax commissioner** File election proceedings with board of elections
4. R.C 133.18 Voted Bond Issue	* February 7, 2018 January 8, 2018	* May 9, 2018 April 9, 2018	* August 8, 2018 July 9, 2018	File resolution of necessity with county auditor File election proceedings with board of elections*** File State Consent application****
5. R.C. 5748.08 Voted Bond Issue combined with an Income Tax	January 23, 2018 February 7, 2018	April 24, 2018 May 9, 2018	July 24, 2018 August 8, 2018	File resolution of necessity with state tax commissioner***** File election proceedings with board of elections

* The Resolution of Necessity must be filed with the County Auditor with enough time for calculation of: (1) the estimated revenue from the levy in the first year; or (2) the millage necessary to raise a certain amount of revenue; and make such calculation available not later than 90 days prior to the election date.

** Resolution of Necessity must also be filed with County Auditor by this date if combined with Property Tax.

*** If a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation, the election proceedings must be filed with the State Department of Education and Department of Taxation at least **98 days before the election date** to ensure that the Superintendent of Public Instruction and State Tax Commissioner certify their consent 90 days before the election date.

**** Required if a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation. In addition, the State Department of Education has advised that if the School District is required to obtain designation as a "Special Needs" district (net indebtedness in excess of 12% of its tax valuation), the School District must file the application for Special Needs designation prior to, or concurrently with, the filing of the State Consent application.

***** The Resolution of Necessity for a combined bond issue with income tax must be filed with the Tax Commissioner and County Auditor 105 days prior to the election date.

ELECTION FILING DEADLINES

2019

Prepared By



<u>Type of Ballot Issue</u>	<u>Election Date</u>			<u>Action Required</u>
	<u>May 7, 2019</u>	<u>August 6, 2019</u>	<u>November 5, 2019</u>	
1. R.C. 5705.21 Levy (Operating or Permanent Improvement)	* February 6, 2019	* May 8, 2019	* August 7, 2019	File resolution of necessity with county auditor File election proceedings with board of elections
2. R.C. 5705.194 Emergency Levy	* February 6, 2019	* May 8, 2019	* August 7, 2019	File resolution of necessity with county auditor File election proceedings with board of elections
3. R.C. 5748 Income Tax (Stand-alone or combined with Property Tax)	January 25, 2019 February 6, 2019	April 26, 2019 May 8, 2019	July 26, 2019 August 7, 2019	File resolution of necessity with state tax commissioner** File election proceedings with board of elections
4. R.C 133.18 Voted Bond Issue	* February 6, 2019 January 7, 2019	* May 8, 2019 April 8, 2019	* August 7, 2019 July 8, 2019	File resolution of necessity with county auditor File election proceedings with board of elections*** File State Consent application****
5. R.C. 5748.08 Voted Bond Issue combined with an Income Tax	January 22, 2019 February 6, 2019	April 23, 2019 May 8, 2019	July 23, 2019 August 7, 2019	File resolution of necessity with state tax commissioner***** File election proceedings with board of elections

* The Resolution of Necessity must be filed with the County Auditor with enough time for calculation of: (1) the estimated revenue from the levy in the first year; or (2) the millage necessary to raise a certain amount of revenue; and make such calculation available not later than 90 days prior to the election date.

** Resolution of Necessity must also be filed with County Auditor by this date if combined with Property Tax.

*** If a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation, the election proceedings must be filed with the State Department of Education and Department of Taxation at least **98 days before the election date** to ensure that the Superintendent of Public Instruction and State Tax Commissioner certify their consent 90 days before the election date.

**** Required if a bond issue will cause the School District's total net indebtedness to exceed 4% of its tax valuation. In addition, the State Department of Education has advised that if the School District is required to obtain designation as a "Special Needs" district (net indebtedness in excess of 12% of its tax valuation), the School District must file the application for Special Needs designation prior to, or concurrently with, the filing of the State Consent application.

***** The Resolution of Necessity for a combined bond issue with income tax must be filed with the Tax Commissioner and County Auditor 105 days prior to the election date.