


Levies 101: A Crash Course for Board Members

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OSBA leads the way to educational excellence by serving Ohio's public school board members and the diverse districts they represent through superior service, unwavering advocacy and creative solutions.




Where are we going today?


- **Level-setting: terminology**
- **What are our options?**
- **Should we go to the voters?**
- **Okay, we're going on the ballot...**
- **Please vote (yes)!**
- **Yay! The issue passed!**



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Level Setting: Terminology



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Valuation

$\text{taxable value} = \text{true value} \times \text{assessment factor}$

- The **true value** depends on the use of the real estate being taxed.
 - For productive agricultural property, the true value is current agricultural use value (CAUV) determined by the state Tax Commissioner.
 - For all other property, the true value is the market value.
- The **assessment factor** is currently 35% for all real property in Ohio.

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Mills/Millage Rate

- **Mills** are the basic unit used for real property taxation in Ohio.

1 mill = 1/10th of a percent = 0.001
- The **10-mill limitation** prohibits taxes in excess of 10 mills without a vote.
 - **All** overlapping jurisdictions are used to calculate the limitation.
 - **“Inside” millage** = unvoted
 - **“Outside” millage** = voted

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Levy Features

Levies can vary in length.

- **Continuing levies** are permanent, and will be collected until the school board elects, or voters vote to, cease collection. (The levies may collect at reduced rates, subject to reduction factors.)
- **Fixed-Term levies** collect for the number of years designated in the ballot language submitted to voters (e.g. 5 years). The maximum term varies by type of levy and is set by statute.

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Levy Features

Levies can be fixed-rate or fixed-sum in nature.

- **Fixed-rate levies** collect a variable amount of dollars at the millage rate approved by voters on the ballot (subject to applicable reduction factors).
- **Fixed-Sum levies** collect a constant amount of dollars over the life of the levy. The county auditor calculates the millage rate of the levy each year.

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Reduction Factors

- Once passed, certain levies are subject to the HB 920 **reduction factor**, which eliminates tax revenue that would result from appreciating real property values.
 - Districts still benefit from growth in the tax base due to new construction.
- Reduction factors are calculated for two classes of property.
 - **Class I: Residential and Agricultural**
 - **Class II: Industrial and Commercial**

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Reduction Factors

- Reduction factors do **not** apply to:
 - Inside millage
 - Substitute levies (ORC § 5705.199)
- The application of reduction factors to **current expense levies** is limited by the 20-mill floor.

Said another way:

If a school district has more than 20 mills in current expense levies, the current expense levies will not be reduced to collect less than 20 mills by reduction factors.

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Mills/Millage Rate

A levy's **effective tax rate** is equal to:

- The voted millage adjusted by the reduction factor, if a fixed-rate levy. After the first year of collection, a levy will usually have two effective rates – one for each class of property.
- The rate calculated by the county auditor, if a fixed-sum levy.

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Renewal vs. Replacement

- **Renewal** of a tax levy continues collection at the current effective rate.
- **Straight replacement** of a tax levy restores the effective rate to the original voted millage rate.

Consider this scenario:

Bayside Local School District's 5-mill permanent improvement levy is expiring at the end of 2016. It currently collects at 4.3 mills in both real estate classes.


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What are our options?



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Types of Levies

- Current Expense (Operating)
- Permanent Improvement (PI)
- Bond Issues
- Emergency → **Must be voted millage**

} Can be
unvoted or
voted millage

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ORC § 5705.21 Levies

ORC § 5705.21 permits a school district to issue a levy for the following purposes:

- Current operating expenses
- General permanent improvements
- Specific permanent improvements
- Community centers
- Recreational purposes
- School safety and security
- Providing educational technology

Note: additional purposes are available in statute.

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ORC § 5705.21 Levies

Under ORC § 5705.21, the maximum term of the levy is 5 years.

Exceptions: Current expense and general permanent improvement levies may be continuing.

Levies passed under this section can be renewed or replaced with an increase or a decrease.

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**Bond Issues
ORC §133.06**

Bonds are issued to pay the debt service on specific capital construction projects.

- Fixed-term (max: life of the buildings)
- Fixed-sum (millage rate varies over term)
- Dollars are reserved for debt service payments and maintenance and permanent improvements for the buildings.

Bond issues can be combined with a permanent improvement levy, a current expense levy, or an income tax.

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**Emergency Levies
ORC § 5705.194**


Purposes:

- to provide for the emergency requirements of the district, or
- to avoid an operating deficit.

Features:

- fixed-sum
- fixed-term, with a maximum of 10 years.
- can be renewed with an increase or decrease.


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Incremental Levies ORC § 5705.192

- Also referred to as “phased-in” levies.
- Can be fixed-sum or fixed-rate.
- Fixed-rate incremental levies can be for a fixed term or continuing.
 - Four increments are permitted.
- Fixed-dollar incremental levies can be for a fixed term of up to 10 years.
 - No limit to the number of annual increments.


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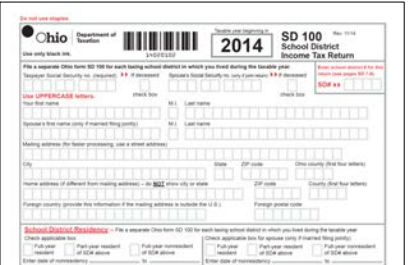
Substitute Levies ORC § 5705.199

- Can replace or consolidate the school district's existing emergency levies.
- Collects a fixed-sum in first year.
 - In subsequent years, applies the millage rate for existing real estate to new real-estate growth in the district.
 - The tax reduction factor does not apply to substitute levies.

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A quick look at another option...



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School District Income Tax

- School District selects tax base:
 - Traditional income
 - Earned income only
- Must set rate in increments of 0.25%.
- Can be continuing or for a fixed term of years.
 - No limit to number of years for term.
- Can be combined with certain property tax levies.
- Board can reduce rate at its own discretion.

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Should we go to the voters?



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Factors to Consider: Operating Considerations

- What are our operating revenue needs?
- When do our time-limited levies expire?
- Are we at the 20-mill floor for current expense levies?
- What impact might collective bargaining agreements and negotiation schedules have on levy campaigns?
- Have there been recent negative public relations items that could hurt our campaign?

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Factors to Consider: Capital Considerations

- What are our facilities needs?
- Is there property we're not using optimally?
- Is participation in Ohio School Facility Commission (OSFC) programs anticipated?
- When do our time-limited PI levies expire?
- Are capital leases or alternative financing arrangements more attractive options?

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Factors to Consider: Timing and Voter Base

- Do we fare better in certain types of elections? (special vs. primary vs. general)
- Are there certain features that never/rarely pass? (combinations, continuing, bonds, income tax)
- Can we reduce the number of times we need to go to the voters with replacement or substitute levies?
- What is the recent experience of overlapping jurisdictions?
- How frequently have we been to the voters?


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Know your district's history!

Bond Elections								
Election Date	Bond Issue Amount	Purpose	Result	For	Against	Percentage For/Against		
03-04-08	\$18,500,000	Construct Schd Fclis	Defeated	3,205	3,216	49.91 % (50.09 %)		
08-07-07	\$17,500,000	Revt. Improv Schd Fclis	Defeated	1,290	1,515	45.94 % (54.06 %)		
05-08-07	\$17,500,000	Revt Hts & Elem Schls	Defeated	1,469	1,624	47.49 % (52.51 %)		
05-02-95	\$14,000,000	Reading & Improving Schd	Approved	1,970	1,804	52.20 % (47.80 %)		
11-08-94	\$12,500,000	Revtng Reading ImprovingSchd Site	Defeated	2,369	2,443	49.23 % (50.77 %)		
11-02-93	\$14,100,000	Improv Sites, Prmit Improvment	Defeated	2,088	2,224	47.45 % (52.55 %)		
05-04-93	\$14,100,000	Constructing Finishing Eagan Sch	Defeated	1,476	1,660	47.07 % (52.93 %)		
02-04-92	\$14,100,000	Constructing, Finishing & Eagan	Defeated	1,642	1,740	48.47 % (51.53 %)		
11-03-91	\$14,100,000	Constructing & Finishing High Sch	Defeated	1,954	2,125	47.53 % (52.47 %)		
05-07-91	\$14,100,000	Constructing Finishing & Eagan	Defeated	1,176	1,482	44.24 % (55.76 %)		
11-06-90	\$13,000,000	Constructing & Eagan High Sch	Defeated	1,809	2,361	41.40 % (58.60 %)		
Levy Elections								
Election Date	Millage	Purpose	New/Renewal	Years	Result	For	Against	Percentage For/Against
02-02-99	6.500	Emergency	New	3	Defeated	1,095	1,761	38.34 % (61.66 %)
11-03-98	6.700	Emergency	New	3	Defeated	2,109	3,213	39.63 % (60.37 %)
05-05-98	6.700	Emergency	New	3	Defeated	1,284	2,415	34.71 % (65.29 %)
05-02-89	9.600	Emergency	New	3	Approved	1,566	998	61.08 % (38.92 %)
02-02-88	8.200	Emergency	New	3	Approved	1,322	1,123	53.84 % (46.16 %)


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Look at the big picture...

- Suppose your school district has:
 - A 3-year **operating levy** that was approved by voters in 2013.
 - A 3-year **permanent improvement levy** that was renewed by voters in 2014.
 - A 3-year **collective bargaining agreement** that was reached in 2014.
 - A 5-year **emergency levy** approved by voters in 2015.
 - Ohio School Facilities Commission **CFAP approval** pending for 2018.


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Look at the big picture...

- Suppose your school district maintains the status quo and just renews levies as they expire.
- Starting with 2013, how many years in a row will your district be on the ballot?

8 years!
(and 11 out of the 13 years through 2025!)



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No, really...

2013	New 3-year operating levy	
2014	3-year permanent improvement levy renewal	CBA
2015	New 5-year emergency levy	
2016	3-year operating levy renewal	
2017	3-year permanent improvement levy renewal	CBA
2018	Bond Issue (Local share portion of CFAP)	
2019	3-year operating levy renewal	
2020	3-year permanent improvement levy renewal	CBA
	5-year emergency levy renewal	
2021		
2022	3-year operating levy renewal	
2023	3-year permanent improvement levy renewal	CBA
2024		
2025	3-year operating levy renewal	
	5-year emergency levy renewal	


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Okay, we're going on the ballot...



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Resolution of Necessity

To initiate the ballot issue process, the Board must pass a **resolution of necessity** declaring the necessity of levying a tax outside the 10-mill limitation.

The resolution must include:

- the purpose and amount of the tax,
- whether the tax is an additional (new) tax, renewal, or replacement, and
- the length of time the tax will be collected, and when it will start.

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Resolution of Necessity

The majority required to pass the resolution depends on the type of levy.

Simple Majority	2/3 Majority
Emergency Levy	§ 5705.21 Levy
Bond Issue	Incremental Levy
Income Tax	

The resolution requests a certification from the county auditor.

Exception: for an income tax, certification is requested from the state tax commissioner.

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Auditor's Certification

The county auditor, upon receipt of the resolution of necessity, will certify:

1. the total current tax valuation of the school district, and
2. one of the following:
 - the number of mills required to generate a specified amount of revenue, or
 - the amount of revenue generated by a specified number of mills

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Resolution to Proceed

Upon receipt of the auditor's certification, the school board must then pass a **resolution to proceed**, asking the county board of elections to put the issue on the ballot.

The resolution must be submitted to the board of elections 90 days before the election.

The resolution specifies the ballot language for the issue.

- Ballot language is set by statute.

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Timing

Renewals and replacements can be submitted at the general election the year before expiration or any election during the year of expiration of the levy.

Exceptions:

- An emergency levy renewal can be submitted in the general or primary election in the year before expiration.
- A replacement levy that is continuing can be proposed at any election subsequent to the year in which the original levy was approved (but only once a year).

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Some (but not all!) variations in the process

- If the School District is requesting an income tax, the resolution of necessity is submitted to the state tax commissioner 100 days in advance of the election.
- The resolution of necessity must for an emergency levy must be submitted to the county auditor 95 days prior to the election.

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Some (but not all!) variations in the process

- If the issuance of bonds will cause the school district's net indebtedness to cross certain thresholds, additional consents are required.
 - 9% net indebtedness
 - 12% net indebtedness ("special needs district")
 - 4% of total valuation

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Please vote (yes)!



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Campaigning

- ORC § 3315.07 prohibits the use of school district dollars to support the passage of a levy.
- Employees cannot conduct activities intended to influence the outcome of the election on school district time.
- Employees can attend public meetings on school district time to present information on school finances and activities or board actions, even if the purpose of the meeting is to discuss or debate passage of the issue.

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Campaigning

- Employees are not prohibited from campaigning for the levy on their own time.
- ORC § 9.03 allows school districts to spend public funds "to communicate information about the plans, policies and operations" of the school district to members of the public within, and who may be affected by, the school district.
- OAG Op. 99-030: communicating consequences of passage or failure of a levy is ok.

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Campaigning

- The Levy campaign is permitted to use school resources such as telephones, copy machines and postage meters if it reimburses the school district for the full cost of use.
- School district policies will regulate whether campaign signs can be posted on school property.

Note: If you allow pro-levy campaign to use resources or post signs, you must also allow the opposition access to same resources at same rate and to post signs. (Equal Protection/1st Amendment)

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Campaigning

- Even though the levy committee is an independent (private) body, Ohio's Open Meetings Act may apply to levy campaign meetings.
- If a majority of board members participate and discuss school business, the meeting is likely subject to sunshine law requirements.
- If a majority of members of one of the school board's committees participates on the levy committee, the same concerns could attach.

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Yay! The issue passed!



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So what's next?

- If the levy passes by a margin of less than 1%, a recount will automatically be triggered.
- The board of elections will certify the election results.
- The tax is levied in the first year indicated in the ballot language.
- Tax anticipation notes may be issued for bonds, emergency levies, incremental levies and substitute levies.

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When do we get the money?

Property tax:

- Always collected in arrears.
- Typically distributed to school districts in quarterly or twice annual payments the year after the tax was assessed.
- Delinquencies and foreclosures will impact collection rate.
- Proceeds may be subject to an administrative fee by the county auditor.

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When do we get the money?

Income tax:

- Distributions begin in the year the tax is assessed (from employer withholdings)
 - Quarterly payments, in April, July, October, and January
 - School districts can borrow against 50% of the first year's collections prior to the first April payment.
- Final payment occurs typically occurs in July the year after the tax is assessed.

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Questions?



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OSBA's legal hotline
 is available to
 member districts.

855-OSBA-LAW



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