

OPINION 65-221

Syllabus:

Section 5705.19 (L), Revised Code, is not applicable to a tax levy passed prior to October 25, 1965.

To: Robert A. Jones, Clermont County Pros. Atty., Batavia, Ohio
By: William B. Saxbe, Attorney General, December 14, 1965

I have before me your recent request for my opinion which reads as follows:

"I would appreciate your opinion in interpreting amended Senate Bill No. 251, amending Section 5705.19 of the Revised Code of the State of Ohio and in particular Subsection (L) of this amendment.

"For your convenience, I am setting out the full text of Section 5705.19 (L) which, as amended, reads as follows:

"(L) For the maintenance and opera-

tion of schools, training centers, * * * or workshops, clinics, and residential facilities for mentally retarded persons. Revenue from a tax levy passed or renewed after the effective date of this section shall not be expended until the budget for the operation of schools, training centers, workshops, clinics and residential facilities for mentally retarded persons for that calendar year has been submitted to and approved by the board of county commissioners. Thereafter, surplus funds from the tax levy not used for operating purposes may be dispensed by the child welfare board or the welfare department, after approval by the board of county commissioners for the replacement of necessary equipment, or for acquiring, constructing, or improving schools, training centers, workshops, clinics, and residential facilities for the mentally retarded.'

"The specific question which we request your opinion on is whether or not under this section, as amended, the surplus funds from a tax levy already in existence may be used for the replacement of necessary equipment, or for acquiring, constructing or improving schools, training centers, workshops, clinics and residential facilities for the mentally retarded."

As the amendment to which you refer has no statutory history, my opinion is necessarily confined to a first-impression interpretation of said amendment. I find particular significance in the following provision of Section 5705.19 (L), Revised Code:

"* * *Revenue from a tax levy passed or renewed after the effective date of this section shall not be expended* * *Thereafter, surplus funds from the tax levy not used for operating purposes may be dispensed by the child welfare board or the welfare department, after approval by the board of county commissioners* * *"

(Emphasis added)

The application of two well established rules of construction to Section 5705.19 (L), supra, produces the answer to your question.

The first rule requires that it is the expressed intent of the General Assembly that is significant. I am therefore, concerned not with that which the General Assembly may have intended to enact, but rather the meaning of that which it did enact.

The second rule is closely related to the first. It provides that when the words of a statute are clear and unambiguous, they are to be given their plain meaning.

An application of these two rules of statutory construction to the emphasized provisions of Section 5705.19 (L), supra, produces one answer. The Legislature has provided that the statute as amended applies solely to tax levies passed after the effective date of said statute.

There is no indication that subsection (L) grants to a board of county commissioners the authority to approve the use of surplus funds from a tax levy passed prior to the effective date of the amended statute.

Therefore, it is my opinion and you are hereby advised that under Section 5705.19 (L), Revised Code, the surplus funds from a tax levy passed prior to October 25, 1965, may not be used for the replacement of necessary equipment, or for acquiring, constructing or improving schools, training centers, workshops, clinics and residential facilities for the mentally retarded.