

OPINION NO. 69-113**Syllabus:**

A special tax levy in excess of the ten-mill limitation for a county board of mental retardation formed pursuant to Section 5126.01, et seq., Revised Code, should be submitted under the provisions of Section 5705.19 (L), Revised Code, rather than Section 5705.24, Revised Code. Although funds from the levy proposed under Section 5705.19 (L), Revised Code, may be used for substantially the same purposes as the current levy passed under Section 5705.24, Revised Code, the proposed levy will not be a "renewal" of the current levy.

To: James R. Scott, Guernsey County Pros. Atty., Cambridge, Ohio
By: Paul W. Brown, Attorney General, September 10, 1969

Your request for my opinion presents the following fact situation: Prior to 1967 a tax levy was passed pursuant to Section 5705.24, Revised Code, to provide funds for the child welfare board to carry out the training and education of men-

tally retarded children. In 1967, Section 5126.01, et seq., Revised Code, became effective, creating a county board of mental retardation to carry out some of the duties formerly handled by the child welfare board. Your main question has two parts as follows:

- 1. Should the next levy for this purpose be submitted under the provisions of Section 5705.24 or Section 5705.19 (L), Revised Code?
- 2. Would this be a "renewal" of an existing levy?

Section 5705.24, Revised Code, sets forth the provisions for a special levy in excess of the ten-mill limitation for child welfare services. Subsequent to the enactment of Section 5705.24, Revised Code, Section 5126.01, et seq., Revised Code, was enacted, transferring certain functions of the child welfare board to the county board of mental retardation but not replacing the child welfare board. See Opinion No. 67-088, Opinions of the Attorney General for 1967.

Section 5126.03, Revised Code, states in pertinent part:

"The county board of mental retardation, subject to the rules, regulations and standards of the commissioner of mental hygiene shall:

"(A) Administer and supervise sections 5127.01 to 5127.04, inclusive, of the Revised Code and exercise such powers and duties as prescribed by the commissioner;

* * * * *

"(D) Provide such funds as are necessary for the operation of training centers and workshops.

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"The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of mental retardation to perform its functions and duties as provided by this section."

Section 5705.19 (L), Revised Code, states in pertinent part:

"The taxing authority of any subdivision * * * may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient * * * and that it is necessary to levy a tax in excess of such limitation for any of the following purposes:

* * * * *

"(L) For the maintenance and operation of schools, training centers, workshops, clinics, and residential facilities for mentally retarded persons. * * *"

The purpose of the proposed levy as stated in your letter is for:

"* * * maintenance and operation of schools, training centers, or workshops for mentally retarded persons * * *."

Notice that the scope of the purpose clause set forth above in Section 5126.03, Revised Code, is also that set forth in Section 5705.19 (L), Revised Code. Thus, Section 5705.19 (L), Revised Code, presents a method by which money may be obtained for the county board of mental retardation outside the ten-mill limitation, rather than Section 5705.24, Revised Code. Since the proposed levy is not to be levied pursuant to Section 5705.24, Revised Code, as was the previous levy, this will not be a "renewal" of an existing levy and should not be stated as such on the ballot prescribed by Section 5705.25, Revised Code. See Opinion No. 68-051, Opinions of the Attorney General for 1968.

Your remaining question pertains to the wording of the purpose clause of the commissioners' resolution and the notice of election. Section 5705.19, Revised Code, provides in pertinent part:

"The taxing authority of any subdivision * * * by vote of two-thirds of all the members * * * may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient * * * and that it is necessary to levy a tax in excess of such limitation for any of the following purposes:"

The purpose with which you are concerned is set forth in paragraph (L) of Section 5705.19, Revised Code, as follows:

"(L) For the maintenance and operation of schools, training centers, workshops, clinics, and residential facilities for mentally retarded persons. * * *"

Section 5705.19, Revised Code, further states:

"Such resolution shall be confined to a single purpose, and shall specify the amount of increase in rate which it is necessary to levy, the purpose thereof, and the number of years during which such increase shall be in effect, which may or may not include a levy upon the duplicate of the current year. * * *"

When the requirements of the above-quoted Section 5705.19, Revised Code, have been complied with, the resolution will be satisfactory.