

revenue for the purposes of the subdivision it is unnecessary to levy taxes on the general property at a rate equal to or greater than 4.85 mills and at a rate outside of constitutional limitations equal to the maximum rate authorized by the vote of the people there is no provision of law which requires or authorizes the tax levying authority of the subdivision to levy such taxes at a greater rate than necessary to provide the necessary funds for the estimated needs of the subdivision during the next ensuing year.

3. When the budget of a board of education prepared in compliance with the provisions of Section 5625-1, General Code, shows that, in addition to a levy of taxes theretofore authorized by a vote of the people outside of constitutional limitations it is unnecessary to levy taxes within the limitation at the rate of 4.85 mills in order to produce the revenue requested by such board, the budget commission, by reason of the provisions of Section 5625-23, General Code, may approve the levy of taxes within such limitations at a rate less than 4.85 mills.

Respectfully,

JOHN W. BRICKER,

Attorney General.

1973.

BONDS—TAX LEVY FOR RETIREMENT OF BONDS MAY BE OMITTED
FROM BUDGET AND TAX LEVY WHEN—REFUND THEREOF
UNDER H. B. NO. 217 UPON AGREEMENT OF BONDHOLDERS.

SYLLABUS:

When the holders of bonds of a county maturing in one year have consented in writing to have their bonds refunded under House Bill No. 217, passed by the 90th General Assembly, and also have agreed, in consideration of the issuance of refunding bonds by the county commissioners in the year previous to such maturity, to accept said refunding bonds in exchange for their original bonds in the manner provided by section 2293-29, General Code, in the event the refunding bonds after advertisement remain unsold at private sale for a period of ten days, and when the refunding bond resolution has been actually adopted making provision for the levy and collection of a tax annually sufficient to pay the interest on the refunding bonds and to provide for their final redemption at maturity, the tax levy which would have otherwise been necessary for the retirement of the bonds refunded may be omitted from the budget and tax levy for the year in which such refunded bonds mature.

COLUMBUS, OHIO, December 8, 1933.

HON. FRANK T. CULLITAN, *Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication, which reads as follows:

“The Board of County Commissioners of Cuyahoga County have asked me to request your opinion in the following connection:

An Act of the General Assembly of Ohio designated as House Bill No. 217 passed March 30, 1933, otherwise known as the Douglas Bill,

authorizes any political subdivision to refund outstanding bonds, whether matured or unmatured, provided that the holders of said bonds consent thereto.

Section 11 of Article XII of the Constitution of Ohio provides, in substance, that no bonded indebtedness of any political subdivision shall be incurred or renewed, unless provision is made for the levy of an annual tax sufficient to pay the interest upon the said bonds, and to provide for their redemption at maturity.

Road and bridge bonds heretofore issued by Cuyahoga County in the amount of approximately one million dollars will mature during the year 1934. It is proposed to obtain, from the holders thereof, their consent to refund the same by authority of and under the procedure outlined in the Douglas Bill aforesaid, and upon the obtaining of such consent to omit from the budget and tax levy, for the year 1934, such tax levy as would otherwise be necessary for the retirement of these bonds in the year 1934.

The query, therefore, is whether such plan and procedure would in any way conflict with, or be in violation of the constitutional provision aforesaid."

The provision in a bond ordinance or resolution for levying and collecting annually by taxation an amount sufficient to pay the interest on the bonds to be issued and to provide for their redemption at maturity, is mandatory on the taxing officials of that subdivision until said bonds are redeemed.

As stated in the case of *Link vs. Karb*, 89 O. S. 326:

"* * * This provision made at the time the issue of bonds is authorized is mandatory on all subsequent taxing officials of that political subdivision during the term of the bonds.

3. This provision of the constitution does not require that at the time the issue of bonds is authorized there shall then be levied any specified amount or any specific rate, but it does require that provision shall then be made for an annual levy during the term of the bonds in an amount sufficient to pay the interest on the bonds proposed to be issued and to provide for their final redemption at maturity, which levy must be made annually in pursuance of the provisions of the original ordinance or resolution requiring the same. The amount necessary to be levied for the purposes specified is to be determined by the taxing officials at the time the levy is made."

Such levy is required only to the extent that it is necessary for such purposes, and if enough money is available to pay bonds maturing in a certain year, a levy need not be made for those bonds, and the amount thereof need not be included in the budget in calculating the amount required for debt charges for that year. I do not believe that it is necessary that such amount be in fund at the time the budget is made up but the taxing officials should be certain that such money will be available for that purpose when such bonds mature.

In the case you present, the taxing officials would not, in my opinion, be authorized to omit the levy for the bonds to mature in 1934 merely upon obtaining consent of the holders thereof to the refunding of such bonds, as the availability of money to pay off such bonds is subject to contingencies which may not happen. However, if such bondholders would also agree, in consideration

of the issuance by the county commissioners of refunding bonds, to accept refunding bonds in exchange for their original bonds in the manner provided by section 2293-29, General Code, in the event the refunding bonds after advertisement remain unsold at private sale for ten days, and if the bond resolution be actually adopted by the commissioners, I am of the view that the omission from the budget and levy for the year 1934, of the tax levy which would otherwise be necessary for the retirement of the original bonds maturing in 1934, would not be a violation of section 11 of article XII of the Constitution.

I am of the opinion therefore that when the holders of bonds of a county maturing in one year have consented in writing to have their bonds refunded under House Bill No. 217, passed by the 90th General Assembly, and also have agreed, in consideration of the issuance of refunding bonds by the county commissioners in the year previous to such maturity, to accept said refunding bonds in exchange for their original bonds in the manner provided by section 2293-29, General Code, in the event the refunding bonds after advertisement remain unsold at private sale for a period of ten days, and when the refunding bond resolution has been actually adopted making provision for the levy and collection of a tax annually sufficient to pay the interest on the refunding bonds and to provide for their final redemption at maturity, the tax levy which would have otherwise been necessary for the retirement of the bonds refunded may be omitted from the budget and tax levy for the year in which such refunded bonds mature.

Respectfully,

JOHN W. BRICKER,

Attorney General.

1974.

MOTOR VEHICLE—MAY BE REGISTERED WITHOUT CHARGE WHEN OWNED OR EXCLUSIVELY USED BY BOARD OF EDUCATION FOR MORE THAN THIRTY CONSECUTIVE DAYS:

SYLLABUS:

A motor vehicle owned by a board of education, or one which the board of education has the exclusive right to use for a period of greater than thirty consecutive days, and which is used for no other purpose than the transportation of school pupils, may be registered as provided by Section 6295, General Code, without charge of any kind. (Opinions of the Attorney General for 1929, Vol. III, page 1859 discussed and approved.)

COLUMBUS, OHIO, December 9, 1933.

HON. PAUL A. BADEN, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—I am in receipt of your recent communication which reads as follows:

“Under date of December 4, 1929, your predecessor rendered an opinion to the effect that where a school board was entitled to the exclusive use of a motor vehicle for a period of greater than thirty (30) consecutive days, such school board will be considered the owner thereof and this motor vehicle may be registered without charge of any kind.