

OPINION NO. 69-103

Syllabus:

School districts which do not have current tax levies of at least seventeen and one-half mills are not eligible to receive funds for services and programs enumerated in Section 3317.06, Revised Code.

To: Martin W. Essex, Supt. of Public Instruction, Dept. of Education, Columbus, Ohio

By: Paul W. Brown, Attorney General, August 21, 1969

Your request for my opinion asks whether school districts in Ohio which do not have a current tax levy of at least seventeen and one-half mills are eligible to receive funds for the services and programs enumerated in Section 3317.06, Revised Code.

Sections 3317.01 through 3317.07 and 3317.10 of the Revised Code were amended and Sections 3317.13 through 3317.16 of the Revised Code were enacted by Amended Substitute Senate Bill No. 350 (132 Ohio Laws, 2308), effective December 1, 1967. Section 3317.01, Revised Code, provides in pertinent part:

"Chapter 3317. of the Revised Code shall be administered by the state board of education, with the approval of the controlling board. The superintendent of public instruction shall calculate the amounts payable to each district and shall certify the amounts payable to each eligible district to the clerk of the district, as provided for in Chapter 3317. of the Revised Code.

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* * * The payments authorized by Chapter 3317. of the Revised Code shall be made only to those school districts in which:

"(A) Beginning January 1, 1969, the district has a current tax levy for school operations of at least seventeen and one-half mills, except that this requirement shall be waived by the superintendent of public instruction for one year if the district has had its total millage reduced below seventeen and one-half mills by action of the county budget commission, board of tax appeals, or county auditor. Levies for joint vocational school districts, limited to or to the extent apportioned to current expenses, may be included in this seventeen and one-half mills qualification requirement."

Prior to January 1, 1969, the eligibility requirement was ten mills. See Section 3 of Senate Bill No. 350, supra, which states:

"From the effective date of this act through December 31, 1968, the payments authorized by Chapter 3317. of the Revised Code shall be made only to those school districts which meet the qualifications required by divisions (B) to (D), inclusive, of section 3317.01 of the Revised Code, provided the district has a current tax levy for school operations of at least ten mills."
(132 Ohio Laws, 2309, 2310)

Section 3317.02, Revised Code, as amended by the afore-

said Senate Bill No. 350, reads in pertinent part:

"Payments to school districts shall be as provided in this section and in sections 3317.04 and 3317.06 of the Revised Code.

"Out of the moneys appropriated by the general assembly for distribution pursuant to Chapter 3317, of the Revised Code for each fiscal year, each eligible school district shall be allocated the amount of money derived from the calculation in either division (A) or (B) following, whichever is greater, plus the amount in division (C)."

And Section 3317.06, Revised Code, about which you inquire, provides in pertinent part:

"In addition to the moneys paid to eligible school districts pursuant to section 3317.02 of the Revised Code, there shall be distributed monthly, quarterly, or annually as may be determined by the state board of education, moneys appropriated for Chapter 3317. of the Revised Code for the following education programs:

"* * * * *"

(Emphasis added)

Pursuant to Section 3317.01, Revised Code, eligibility of a school district for the school foundation payments depends in part upon said district's having, on and after January 1, 1969, current tax levies for school operations of at least seventeen and one-half mills. Further, the moneys distributed pursuant to Section 3317.06, Revised Code, are in addition to those moneys paid to eligible school districts pursuant to Section 3317.02, Revised Code.

Giving effect to the foregoing observations, it is my opinion and you are hereby advised that school districts which do not have current tax levies of at least seventeen and one-half mills are not eligible to receive funds for services and programs enumerated in Section 3317.06, Revised Code.