

**OPINION NO. 68-035****Syllabus:**

A board of education of a City School District may submit a tax levy for current operating expenses under the provisions of Section 5705.21, Revised Code, at a special election, which levy would run for a continuing period of time.

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**To: Thomas W. Kerrigan, Shelby County Pros. Atty., Sidney, Ohio**  
**By: William B. Saxbe, Attorney General, February 16, 1968**

Your request for my opinion reads as follows:

"May the Board of Education of a City School District submit a tax levy at a special election

for current operating expenses, which would run for a continuing period of time?"

Section 5705.21, Revised Code, authorizes boards of education to declare by resolution duly adopted that the amount of taxes raised within the ten-mill limitation will be insufficient to provide an adequate amount for the necessary requirements of the school district and to submit the question of an additional levy to the electors of the school district. Prior to the amendments enacted by the 107th General Assembly, the question of the additional levy could only be submitted at one special election during a calendar year and the levy could not be for a longer period than five years.

By Amended House Bill No. 739 (132 v H 739), effective November 7, 1967, the legislature increased the number of special elections that may be called within a calendar year from one to two, but retained the limitation that:

"\* \* \* Such resolution shall conform to section 5705.19 of the Revised Code, except that such levy may not be for a longer period than five years  
\* \* \*"

However, Section 5705.21, Revised Code, was again amended in Amended Substitute Senate Bill No. 350 (132 S 350), effective December 1, 1967, and in this amended version the limitation that the levy may not be for a longer period than five years was deleted. That this deletion of the five-year limitation was not the result of an oversight is confirmed by the amendment of the last three sentences of the first paragraph of Section 5705.21, Revised Code, which read as follows:

"\* \* \* A levy providing current operating revenues for a school district may be reduced pursuant to the provisions of section 5705.261, 5705.31, 5705.331, or 5713.11 of the Revised Code. Such tax levy shall be included in the next annual tax budget that is certified to the county budget commission. After the approval of \* \* \* a levy \* \* \* voted for a specific number of years and prior to the time when the first tax collection from such levy can be made, the board of education of the school district may anticipate a fraction of the proceeds of such levy and issue anticipation notes in an amount not exceeding fifty per cent of the total estimated proceeds of the levy throughout its life." (Underscoring shows new language, \* \* \* show deletion by legislature)

An examination of Sections 5705.261, 5705.31, 5705.331 and 5713.11 of the Revised Code, cited in the above-quoted portion of Section 5705.21, *supra*, reveals that Section 5705.261 of the Revised Code specifies the manner in which a levy for a continuing period of time may be reduced.

In addition, Section 5705.21, Revised Code, as amended, states that the resolution of necessity shall conform to Section 5705.19, Revised Code, and Section 5705.19, Revised Code, as amended by Amended Substitute Senate Bill 350, *supra*, provides in pertinent part:

"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 for the current year. The number of years may be any number not exceeding five, except \* \* \* and except when the additional rate is for the purpose of providing current operating revenues for a school district, \* \* \* the increased rate \* \* \* shall be for a continuing period of time, \* \* \* (Emphasis added)

Therefore, giving effect to the foregoing observation, it is my opinion and you are hereby advised that a board of education of a City School District may submit a tax levy for current operating expenses under the provisions of Section 5705.21, Revised Code, at a special election, which levy would run for a continuing period of time.