

OPINION NO. 1417

Syllabus:

Section 1711.15, Revised Code, does not authorize a special levy for current expenses of a county agricultural society when the expenditures required do not exceed \$20,000.

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To: John F. DeMuth, Paulding County Pros. Atty., Paulding, Ohio  
By: William B. Saxbe, Attorney General, September 29, 1964

The specific question in your request for my opinion

is as follows:

"Can the Board of County Commissioners, under the provisions of R. C. Section 1711.15, or any other section, submit a question of a tax levy for the County Agricultural Society when the annual amount appropriated by the Board of County Commissioners is less than \$20,000.00?"

Section 1711.15, Revised Code, reads in part as now set forth:

"In any county in which there is a duly organized county agricultural society, the board of county commissioners may purchase or lease, for a term of not less than twenty years, real estate on which to hold fairs under the management and control of the county agricultural society, and may erect thereon suitable buildings and otherwise improve it.

"In counties in which there is a county agricultural society which has purchased, or leased, for a term of not less than twenty years, real estate as a site on which to hold fairs or in which the title to such site is vested in fee in the county, the board may erect or repair buildings or otherwise improve such site and pay the rental thereof, or contribute to or pay any other form of indebtedness of said society, if the director of agriculture has certified to the board that the county agriculture society is complying with all laws, rules, and regulations governing the operation of county agricultural societies. The board may appropriate from the general fund such an amount as it deems necessary for any of said purposes. If the amount appropriated to be expended in the purchase of such real estate or in the erection of buildings or other improvements or payments of rent or other forms of indebtedness of said society exceeds twenty thousand dollars in any one year, such expenditure shall not be made unless the question of a levy of the tax therefor is submitted to the qualified electors of the county at a general election, a notice of which, specifying the amount to be levied, has been given at least thirty days previous to such election, in one or more newspapers published and of general circulation in the county.\* \* \*

The remainder of the section provides for the passing of a resolution authorizing the submission of the question. It also contains other provisions that need not be mentioned.

Your above request contains some observations after setting forth your question. Particular note has been taken of the last sentence of your letter which reads: "If the above quoted section authorizes such a levy, it must do so by implication." I concur therein and am further of the opinion that there is no basis for concluding that any implied authority can be read into the section.

Touching on your question is Opinion No. 2569, Opinions of the Attorney General for 1953, which dealt with the authority of a general health district to forfeit the funds available to it and provide for its entire expenses with a special levy. The district attempted to levy said tax under Section 1261-40a, General Code, which provided:

"If the aggregate amount necessary to meet the current expenses of the fiscal year\* \* \*will not be forthcoming to the board of health of such district out of the district health fund because the amount of taxes to be raised during the ensuing year within the ten mill limitation will be insufficient,\* \* \* The county commissioners shall\* \* \*declare by resolution \* \* \*that it is necessary to levy a tax in excess of such limitation in order to provide the board with sufficient funds to meet its current expenses."

In observing that the health district is not authorized by this section to use a levy for its entire expenses, my predecessor stated:

"Section 1261-40a contemplates that the amount that will be realized by the board of health for its operation, out of the tax levy based on such revised budget, together with the state subsidy provided by Section 1241-39, General Code, may be found insufficient for its needs, by reason of the ten mill tax limitation contained in Article XII, Section 2, of the Constitution.

"This insufficiency, so caused, is the sole basis for a special levy approved by the electors of the health district.  
\* \* \*

"It appears clear from the language of these two sections, that the only purpose of the submission of this extra levy is to supply the deficiency so caused; and except for that purpose there is no authority given to the board of health or to the county commissioners acting for it, to submit such a proposal to the electors. \* \* \*"  
(page 165)

The principle applied to Section 1261-40a, General Code, must be applied also to Section 1711.15, Revised Code. Both statutes designate a specific condition under which a special

levy may or must be employed for the funds required. Neither authorizes a levy for any purpose except that specifically designated in the statute. If the agricultural society can establish need for additional funds, the Board of County Commissioners has the authority to appropriate up to \$20,000 before said additional amount may be made the subject of a special levy.

Your request that I advise you regarding the scope of Section 1711.15, Revised Code, "or any other section" causes me to note that Section 1711.15, Revised Code, does not restrict the use of any other section of the Revised Code which grants the Board of County Commissioners authority to levy taxes. Specifically, you are directed to Sections 5705.19 and 5705.191, Revised Code, which provide for the submission of a levy to the electors when the taxes raised under the ten mill limitation are insufficient to meet the needs of the subdivision.

In conclusion, you are advised that Section 1711.15, Revised Code, does not authorize a special levy for current expenses of a county agricultural society when the expenditures required do not exceed \$20,000.