

tion," the context clearly shows that it was not the intention of the legislature that the word "may" as there used should be regarded as mandatory.

The fact that the taxing authority may determine the rate of levy to be made within the rate authorized, clearly manifests an intention that if the taxing authority should determine that no levy was necessary, it is not required to make any. The vote, if favorable, is merely authority to make a levy if needed. It does not make the levy. In my opinion the word "may" as so used does not import the fixing of a mandatory duty.

It may be noted at this point that the said Amended Senate Bill #97 was amended by Amended Senate Bill #46 of the 91st General Assembly which latter act was passed as an emergency measure on February 5, 1935, and approved by the Governor February 6, 1935, whereupon it became immediately effective. The amendments made by this latter act have nothing to do with the question here under consideration nor with the construction of the provisions of the act with respect to the matters herein discussed.

The only change made by the amended act is with respect to the date when the special election authorized by the act may be held. The amended act provides as did the original act, that the resolution of the taxing authority calling an election may be passed at any time prior to March 31st, 1935, and shall specify the date of holding such election, and provides further, "which shall not be earlier than ten days after the adoption and certification of such resolution nor later than June 1, 1935." The other provisions of the two acts are precisely the same.

Summarizing, it is my opinion that:

1. When a favorable vote is had on the question of making tax levies within a subdivision outside of constitutional limitations, by authority of Amended Senate Bill No. 97 of the second special session of the 90th General Assembly, as amended by Amended Senate Bill No. 46 of the 91st General Assembly, the taxing authority of the subdivision is authorized to make the levy at the rate so authorized or at any lesser rate, or to make no levy at all if it should be determined that no levy is necessary.

2. It is the duty of a county auditor to extend tax levies made by authority of an election held in pursuance of Amended Senate Bill No. 97 of the second special session of the 90th General Assembly, as amended by Amended Senate Bill No. 46 of the 91st General Assembly, on the regular 1934 general tax duplicate for real property and public utilities taxes for collection with the first half year's collection of those taxes if it may reasonably be done. Otherwise, all those taxes should be collected with the collection of the second half year's collection of the taxes levied on the said duplicate.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

---

4268.

APPROVAL, BONDS OF LAKE TOWNSHIP RURAL SCHOOL DISTRICT,  
STARK COUNTY, OHIO, \$16,000 (UNLIMITED).

COLUMBUS, OHIO, May 17, 1935.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

---

4269.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS DUTIES AS  
RESIDENT DISTRICT DEPUTY DIRECTOR OF HIGHWAYS—F. O.  
BIEHN.