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ELECTION—BOARD OF EDUCATION OF SCHOOL DISTRICT WHICH INCLUDES TERRITORY WITHIN MUNICIPAL CORPORATION AND ONE OR MORE TOWNSHIPS—WHEN IT SUBMITS THE QUESTION OF ADDITIONAL TAX LEVY TO ELECTORS OF SCHOOL DISTRICT AT PRIMARY ELECTION HELD IN ODD NUMBERED YEAR IN MUNICIPALITY AND TOWNSHIPS, EACH SUBDIVISION SHOULD PAY COST OF PRINTING AND DELIVERING ITS OWN BALLOTS, INSTRUCTION CARDS AND OTHER ELECTION SUPPLIES—COMPENSATION OF JUDGES AND CLERKS OF ELECTION AND OTHER ITEMS OF COST SHOULD BE APPORTIONED ON AN EQUITABLE BASIS AMONG SCHOOL DISTRICT AND OTHER POLITICAL SUBDIVISIONS—SECTION 4785-20 PARAGRAPH b G. C.

SYLLABUS:

When the board of education of a school district which includes territory within a municipal corporation and one or more townships, submits the question of an additional tax levy to the electors of the school district at a primary election held in an odd numbered year in the municipality and townships, each subdivision should pay the cost of printing and delivering its own ballots, instruction cards and other election supplies, and the compensation of judges and clerks of election and other items of cost referred to in paragraph b of Section 4785-20, General Code, should be apportioned on an equitable basis among the school district and the other political subdivisions.

Columbus, Ohio, February 21, 1945

Hon. T. T. Shaw, Assistant Prosecuting Attorney
Defiance, Ohio

Dear Sir :

This will acknowledge receipt of your letter of recent date inquiring if the board of education of the Hicksville exempted village school district was properly charged with all the cost of holding a primary election in 1943. at which time the question of levying an additional tax outside of

the ten mill tax limitation was submitted to the electors of the school district under Amended Senate Bill No. 69 (120 O. L. 60).

Amended Senate Bill No. 69 was in effect during the years 1943 and 1944, and expressly authorized the taxing authority of any subdivision to submit an additional tax levy to the electors of the subdivision at either a special or primary election.

Your letter states that the Hicksville exempted village school district includes all of the territory within the village of Hicksville and Hicksville township, and also the southern part of Milford township.

I also note the statement in your letter that "There were no contests for any offices on any ticket at this primary election." If you mean by this statement that the total number of candidates, taking into consideration all political parties, who filed declarations of candidacy for offices to be voted upon at the 1943 election in a subdivision, did not exceed the total number of candidates to be nominated in the subdivision by all political parties at such primary, then, in that case, no primary election could have legally been held in such subdivision because of the express prohibition contained in the last sentence of Section 4785-67, General Code, and any election held in such subdivision on what otherwise would have been primary election day, for the purpose of voting on the question of an additional tax levy for the school district, would, in my opinion, be properly classed as a special election, the cost of which would be chargeable against the school district under paragraph c of Section 4785-20, General Code, which reads as follows :

"The cost of all special elections shall be charged against the subdivisions for and in which such elections are held."

If, on the other hand, the total number of candidates, taking into consideration all political parties, who filed declarations of candidacy for offices to be voted upon at the 1943 primary election in a subdivision, exceeded the total number of candidates to be nominated in the subdivision by all political parties at such primary, then, in that case, the primary election was properly held in the subdivision (see Opinions of the Attorney General for 1939, No. 888, page 1201), and in my opinion the cost of holding the election in such subdivision should have been apportioned among the subdivisions in and for which the primary election and the tax

levy election were held, under paragraph b of Section 4785-20, General Code, which reads as follows :

“The compensation of judges and clerks of elections ; the cost of renting, moving, heating and lighting polling places and of placing and removing ballot boxes and other fixtures and equipment thereof ; the cost of printing and delivering ballots, cards of instruction and other election supplies ; and all other expenses of conducting primaries and elections in the odd numbered years shall be charged to the subdivisions in and for which such primaries or elections are held.”

Inasmuch as you have stated in your letter that the question of an additional tax levy was submitted to the electors at a 1943 primary election, I am assuming for the purpose of this opinion that a primary election was legally held in the village of Hicksville, and also in Hicksville and Milford townships pursuant to the provisions of Section 4785-90, General Code, relating to the holding of primaries in certain municipalities and townships. Such being the case, all the cost of holding the village and township primaries should not have been charged to the Hicksville exempted village school district, but since the board of education submitted an additional tax levy to the electors of the school district at these primaries, it should, in my opinion, be charged with the cost of printing and delivering its own ballots, instruction cards, and election supplies ; and the compensation of judges and clerks of election and other items of cost referred to in paragraph b of Section 4785-20, General Code, excepting the cost of printing and delivering the village and township ballots, instruction cards, and election supplies, should have been apportioned on an equitable basis among the school district and the other political subdivisions involved.

Respectfully,

HUGH S. JENKINS

Attorney General