

A comparison of the section as amended with the section as originally enacted discloses but two changes: First, the provisions of the section are extended for a period of two years, that is to say, instead of authorizing bonds to be issued for providing additional funds necessary for poor relief prior to March 1, 1933, the amendment authorizes the issuance of such bonds to provide additional funds necessary for poor relief prior to March 1, 1935. In harmony with this extension, the amendment provides that the maximum maturity shall be on or before September 15, 1942 instead of September 15, 1940. Second, the clause which limited the amount of indebtedness which could be incurred under this section to one-tenth of one per cent of the general tax list and duplicate, by this amendment now provides a limitation of an amount not exceeding "*in the aggregate*" one-tenth of one per cent of the general tax list and duplicate. Had not these words "*in the aggregate*" been inserted, it could still be argued that the limitation does not apply to each separate year in the absence of qualifying words to that effect, but that it applies to bonds issued under that section. By the insertion, however, of these words "*in the aggregate*", as qualifying the limitation, the legislature has unmistakably limited the total amount of bonds which may be issued under the section. Any other construction would give no effect to the amendment of the section by the 90th General Assembly, limiting the amount of bonds that may be issued thereunder.

Specifically answering your inquiry, it is my opinion that the aggregate amount of bonds which may be issued during the years 1932, 1933 and 1934 under Section 7 of Amended Senate Bill No. 4 of the 89th General Assembly, special session, as amended by Senate Bill No. 63 of the 90th General Assembly, may not exceed one-tenth of one per cent of the general tax list and duplicate of a subdivision issuing such bonds, and such indebtedness must further be within the limitations as to the unvoted net indebtedness provided by the Uniform Bond Act.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

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EDUCATIONAL EQUALIZATION FUND—ELECTORS VOTING IN FAVOR OF LEVYING TAXES OUTSIDE FIFTEEN-MILL LIMITATION—ELECTORS MAY NOT LATER VOTE TO CEASE PARTICIPATION WITHIN PERIOD STATED IN ORIGINAL RESOLUTION.

**SYLLABUS:**

*When a board of education resolves to submit to the electors the question of participation in the state educational equalization fund and a levy of taxes outside the fifteen mill limitation for a definite period of years as set forth in such resolution, and the question is submitted in accordance with Section 5625-18a, General Code, when a majority of the electors voting thereon vote in favor thereof, the board of education may levy a tax at such additional rate outside the fifteen mill limitation during the definite period of years stated in the original resolution to submit the question to the electors, or for any number of years less than said period, and there is no authority to submit to the electors the question of ceasing to participate in said fund.*

COLUMBUS, OHIO, June 17, 1933.

HON. LEO M. WINGET, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"I herein inclose a copy of the resolution adopted by the Board of Education of McCartyville School District on September 14, 1931, together with a copy of notice under which all the electors of said school district voted on said resolution at the general election held November 2, 1931.

It is to be noted that in the resolution the Board of Education proposes to participate in the State Educational Equalization fund for a period of two years, while the notice of election and the ballot in the election on November 2, 1931, made no reference to the resolution adopted by the Board of Education.

Construing Sections 5625-18a and 5625-18b of the General Code of Ohio and any other section that you may deem pertinent to this matter, I would appreciate your opinion as to when the Board of Education of said school district has the power to cease participating in said State Educational Equalization fund and whether it is necessary for the electors of said school district to vote to cease participating in said fund."

The resolution of September 14 attached to your letter is as follows:

"Whereas, it is impossible under existing conditions to make tax levies sufficient to meet the requirements of Section 7595-1 of the General Code of Ohio, for participation in the State Educational Equalization fund; therefore, be it resolved, that we submit the question of participation in said fund to a vote of the electors of the McCartyville School District, subject to their decision at the next regular election, November 3, 1931, the ballot to read as follows, said participation to last two years from date of this resolution:

'For participation in State Educational Equalization Fund.'

'Against participation in State Educational Equalization Fund.'

The notice of election also attached to your letter reads:

"Notice is hereby given that in pursuance of a resolution of the Board of Education of the McCartyville Rural School District, Shelby County, Ohio, passed on the 14th day of September, 1931, there will be submitted to a vote of the people of said school district at the November election to be held in the County of Shelby, Ohio at the regular place of voting therein on TUESDAY, THE 2ND DAY OF NOVEMBER, 1931, the question whether or not the McCartyville Rural School District will participate in State Educational Equalization Fund.

Shall the McCartyville Rural School District apply for participation in the State Educational Equalization Fund and levy a tax outside of the 15 mill limitation for the current expenses of said school district in an amount equal to the average tax levy voted outside of said limitation for the current expenses of schools by all the school districts in an amount equal to the average tax levy voted outside of said limitation for the current expenses of schools by all the school districts in the State of Ohio

which do not participate in said fund (in no event to exceed 3 mills) for such period as the district may continue to participate in State Educational Equalization Fund.

For participation in State Educational Equalization Fund.

Against participation in State Educational Equalization Fund.

The polls for said elections will be open at 6:30 A.M. and will remain open until 6:30 P.M. the same day.

(Signed) Frank Reilly Clerk  
McCartyville Rural,  
Shelby County, Ohio,  
School District."

Section 5625-18a, General Code, as enacted by the 89th General Assembly, provides:

"If the board of education of any school district shall have applied to the director of education for participation in the state educational equalization fund under the provisions of section 7595-1 of the General Code for the school year 1931-1932, but cannot make tax levies sufficient to meet the requirements of such section, there shall be submitted to the vote of the electors of such district at the November election in the year 1931, the question whether the people of said district shall approve such application and authorize a tax for the current expenses of the school district outside of the fifteen mill limitation for so long a period as said district participates in said fund, the rate of such extra levy to be not greater than the average levy for the current expenses of schools, authorized by vote of the people in all districts throughout the state which do not participate in the state educational equalization fund, but in no event to exceed three mills. The board of elections of the county shall submit the question to the electors of the district in accordance with the provisions of section 5625-17 of the General Code but the form of the ballot shall be as follows:

'Shall the . . . . . school district apply for participation in the state educational equalization fund, and levy a tax outside of the fifteen mill limitation for the current expenses of said school district in an amount equal to the average tax levy outside of said limitation for the current expenses of schools by all the school districts in the state of Ohio which do not participate in said fund (but in no event to exceed three mills) for such period as the district may continue to participate in said educational equalization fund.

FOR PARTICIPATION IN STATE EDUCATIONAL EQUALIZATION FUND

AGAINST PARTICIPATION IN STATE EDUCATIONAL EQUALIZATION FUND."

You have not submitted the form of ballot which was submitted to the electors and I therefore assume for the purposes of this opinion that the form was in compliance with that set out in the foregoing section of the General Code. The provisions of this section with respect to the form of ballot are mandatory. The exact form is set forth therein in quotation marks and it is therefore my view that a form of ballot which would set forth the period of participation in the state educational equalization fund and the period during which the tax outside

the fifteen mill limitation shall be levied would be contrary to the provisions of Section 5625-18a, supra. In providing the exact form of ballot which shall be used the legislature apparently did not desire that the board of education should be limited by the electors as to the period during which the district may participate.

The resolution to submit the question to the electors properly provided the period of participation. Section 5625-18b provides:

"If the majority of the electors voting thereon at such election vote in favor thereof, the taxing authority of said school district may levy a tax within such school district at such additional rate outside of the fifteen mill limitation during the period and for the purpose stated in the resolution or at any less rate, or for any of said years. The result of the election shall be certified immediately after the canvass by the board of election to the taxing authority, who shall forthwith make the necessary levy and certify it to the county auditor who shall extend it on the tax list for collection after the next succeeding February settlement; in all other years it shall be included in the annual tax budget that is certified to the county budget commission."

The foregoing section authorizes the levy of a tax at an additional rate upon favorable action of the electors as therein set forth during the period stated in the resolution or for any of said years. The resolution referred to is clearly the resolution to submit the question to the electors.

Specifically answering your question, it is my opinion that when a board of education resolves to submit to the electors the question of participation in the state educational equalization fund and a levy of taxes outside the fifteen mill limitation for a definite period of years as set forth in such resolution, and the question is submitted in accordance with Section 5625-18a, General Code, when a majority of the electors voting thereon vote in favor thereof, the board of education may levy a tax at such additional rate outside the fifteen mill limitation during the definite period of years stated in the original resolution to submit the question to the electors, or for any number of years less than said period, and there is no authority to submit to the electors the question of ceasing to participate in said fund.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

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APPROVAL, NOTES OF SOUTH BLOOMFIELD TOWNSHIP RURAL  
 SCHOOL DISTRICT, MORROW COUNTY, OHIO—\$1,250.00.

COLUMBUS, OHIO, June 17, 1933.

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