

improvement. As indicated by your letter and the last paragraph thereof, a repair may be made by section men under Title 4, Chapter 9, General Code, and additional repair to practically the same portion of the highway might be made as an emergency repair by the county engineer and a general improvement of the entire road might be made by the county commissioners all in the same year.

The general thought in this general discussion, as requested by you, and the controlling legal principle to be applied is that related sections of the General Code, providing for location, construction, maintenance and repair of roads must be followed through in detail as the same may apply to the particular improvement being made.

I believe this opinion answers every inquiry in your letter and will apply to any question your board of county commissioners may have as to their supervision of roads in your county.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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541.

TAX LEVY — DETAIL INFORMATION, BALLOTS — 5625-18a,  
MANDATORY.

*SYLLABUS:*

*Under the provisions of Section 5625-18a, General Code, it is mandatory that the detailed information therein required, be placed on the ballot submitted to the voters at an election.*

COLUMBUS, OHIO, April 29, 1937.

HON. WILLIAM J. KENNEDY, *Secretary of State, Columbus, Ohio.*

DEAR SIR: I am in receipt of your letter of recent date requesting my opinion which reads as follows:

“Kindly note enclosed form of ballot submitting the question of a tax levy outside the ten mill limitation. This ballot also submits a proposed bond issue, but with reference to the latter proposal, we have no inquiry to make.

You will note that the tax levy proposal is presented in the following manner:

‘The question of levying all of the tax levies required to be

levied within the ten mill limitation for the debt charges of this subdivision be levied outside of the ten mill limitation, by virtue of and under the provisions of General Code of Ohio, Sec. 5625-18a, in order to secure additional millage for operating expenses.'

I wish to advise that the form of ballot used in submitting this proposed tax levy is entirely different from any form heretofore approved by the Secretary of State.

Will you please advise me as to whether a tax levy may be legally submitted in this manner in view of the provisions of Section 5625-18a, Section 5625-15 and Section 5625-17 of the General Code, which sections, in our opinion, are of a mandatory character with reference to such election procedure. Your early opinion will be appreciated. We will ask that you please return the enclosed ballot."

The taxing authority of any subdivision may declare, by resolution, that the amount of taxes which may be levied within the ten mill limitation will be insufficient to provide an adequate amount for the necessary requirements of the subdivision for current operating expenses. Under authority of Section 5625-18a, effective December 20, 1935, such taxing authority is empowered to submit the question to the electors of such subdivision as to levying all or any part of the tax levies within the ten mill limitation for the debt charges of the subdivision, outside of the ten mill limitation.

You will note that the resolution authorized under Section 5625-18a shall conform to the requirements of Section 5625-15 of the General Code, and a study of this section discloses that the resolution must itself, among other recitals, be confined to one purpose, *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*.

The next step to be considered is found in that part of Section 5625-17 setting forth the essential recitals of the election notice. The statute specifically provides that such notice must contain *the purpose, the proposed increase in rate, and the number of years during which such increase shall be in effect*. This is all for the protection of the electors so that they may be informed of the proposal that will be submitted to their consideration on election day.

Continuing further, Section 5623-18a provides, among other things, that the provisions of Section 5625-17 shall govern the *arrangements* for the submission of such question and *other matters and things* with respect to such election, excepting that such election may be held on the date specified in the resolution and the publication of notice of such election,

if made four times in one or more newspapers of general circulation in the subdivision, shall not be required to be made once a week for four consecutive weeks.

The following excerpt of Section 5625-18a is to my mind one of the keynotes to your inquiry:

“ \* \* \* A copy of such resolution shall, immediately after its passage, be certified to the board of elections of the county in the manner provided in Section 5625-17 of the General Code, and the provisions of said section shall govern the arrangements for the submission of such question and other matters and things with respect to such election, to which said Section 5625-17 of the General Code refers. \* \* \*”

It naturally follows therefore that the form of ballot is one of the arrangements or matters whereby the question is properly placed before the electors for their consideration. It has always been the intent that questions be submitted to the electors in such a clear, concise form that they might be easily digested and voted upon. To substantiate and carry out this intent, the legislature in many instances has either provided what shall be contained in the ballot or has provided the form of the ballot itself. In the instant case, a form is prescribed by Section 5625-17, which section provides in part as follows:

“The form of the ballots cast at such election shall be:  
 ‘An additional tax for the benefit of (name of subdivision) .....for the purpose of (purpose stated in the resolution)..... at a rate not exceeding.....mills for .....(life of indebtedness or number of years the levy is to be run).’

		For the Tax Levy	
		Against the Tax Levy	”

Coming now to the ballot actually presented to the electors, I here insert this ballot at this point:

“The question of levying all of the tax levies required to be levied within the ten mill limitation for the debt charges of this

subdivision be levied outside of the ten mill limitation, by virtue of and under the provisions of General Code of Ohio, Sec. 5625-18a, in order to secure additional millage for operating expenses.

		FOR THE LEVY OUTSIDE THE TEN MILL LIMITATION	
		AGAINST THE LEVY OUTSIDE THE TEN MILL LIMITATION	

A study of this ballot reveals that there did appear the purpose, but where, with the exception of "outside of the ten mill limitation," is there contained any language as to the amount of the increase in rate or the number of years during which such increase shall be in effect? For this reason alone, the ballot presented to the electors is not in harmony with the essential recitals of the taxing authority's resolution or with the essential recitals of the election notice and must necessarily be held faulty.

There is one stronger point to be considered and that is that Section 5625-17, to which Section 5625-18a refers, sets forth specifically the form of ballot that *shall be* used.

In an opinion rendered by a former Attorney General in 1928, Vol. IV, page 2993, with which I concur, dealing with Section 2293-23, which section provides: "The form of ballot to be used at such election shall be as follows: \* \* \* , and then goes on to set forth the form of ballot, the then Attorney General in his opinion held as disclosed by the syllabus:

"Under the provisions of Section 2293-23, General Code, 112 O. L. 374, it is mandatory that the detailed information therein required, be placed upon the ballot submitted to the voters at election. The failure to so give the detailed information renders the election, as it pertains to the bond issue, invalid."

In the instant case, the same question is presented, namely that Section 5625-17, General Code, specifically states that "The form of the ballots cast at such election shall be \* \* \* . I am therefore of the opinion that the ballot set forth in your letter is not in compliance with the statutory provisions and is incorrect in form.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*