

to the amount of rental to be collected from each of such leases, and that, when so approved, a duplicate copy thereof shall be filed with the Treasurer of State and rental bills for the ensuing year shall be rendered accordingly.

Assuming, as I must, that the annual rentals which under your findings are to be paid upon these respective leases for the current year, November 1, 1935, to November 1, 1936, are the reduced amounts of the current rentals on these leases fixed by the Superintendent of Public Works for the preceding year, these findings are approved by me, as is evidenced by my approval endorsed thereon and upon the copies thereof, all of which are herewith enclosed.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

5711.

---

ELECTION LAW—TAX TO BE LEVIED OUTSIDE TEN MILL  
LIMITATION BY VOTE OF PEOPLE—LIMITATION OF  
TAX FOR TWO-YEAR PERIOD.

SYLLABUS:

1. *There is no authority for the submission to the electors of a subdivision at a primary or special election of the question of levying a tax outside the ten mill limitation for any of the purposes mentioned in Section 5625-15, General Code, for a longer period than two years.*

2. *Where the taxing authority of a subdivision passed a resolution providing for the submission of such question to the electors thereof at the primary election for a period of three years, the election held upon the question of levying such tax is illegal.*

COLUMBUS, OHIO, June 16, 1936.

HON. E. DUDLEY HARRIS, *Prosecuting Attorney, Waverly, Ohio.*

DEAR SIR: I acknowledge receipt of your communication which reads as follows:

“Would you please render an opinion at your earliest convenience upon the following questions?”

Statement of Facts:

The Board of County Commissioners of Pike County, Ohio, passed the enclosed resolution. This resolution was certified and

filed with the board of deputy state supervisors and inspectors of election of Pike County, by the Commissioners sixty days prior to May 12th, 1936. The Board of Elections made the necessary arrangements to submit the question to the voters at the primary election. Notice of the election was published four consecutive weeks prior thereto.

The question was voted upon May 12th, 1936, upon a special ballot. Sixty-five and five-tenths per cent (65.5%) of the electors voting thereon voted in favor of the proposed tax levy. Questions:

(1) Was the election held upon the question of the proposed levy legal?

(2) Having conducted the election as outlined above, may the proposed tax levy be placed upon the tax duplicate of Pike County?"

Of course, if the election was illegal then the levy could not lawfully be placed upon the duplicate.

I assume it was proposed to take advantage of the provisions of House Bill 579 of the first special session of the 91st General Assembly, since the provisions of Section 5625-15, et seq., General Code, provide only for the submission of such a question at a November election. Said House Bill 579 reads in part as follows:

"At any time prior to the thirty-first day of December, 1936, the taxing authority of any subdivision, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes which may be raised within the ten mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the purposes mentioned in section 5625-15 of the General Code, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a special or primary election to be held at a time therein specified. Such resolution shall conform to the requirements of section 5625-15 of the General Code, excepting that such levy may not be for a longer period than two years, and such resolution shall specify the date of holding such special or primary election, which shall not be earlier than twenty days after the adoption and certification of such resolution nor later than one hundred and twenty days thereafter. \* \* \*."

Section 5625-15, General Code, provides that the resolution shall

specify, among other things, the number of years during which the increased levy shall be in effect. Before there is any authority for holding such election, a resolution at least substantially complying with the requirements of said House Bill 579 must be passed. The passage of a lawful resolution is a condition precedent to the holding of such an election. The resolution in question provided for the submission of a proposition to make a levy outside of the ten mill limitation for a period of three years, whereas under said house bill the question of making a levy for more than two years is unauthorized and the resolution in specifying the period for which such levy shall be made cannot specify a longer period than two years. I am of the view that this is not a mere irregularity but goes to the foundation of the election and that since there was no authority to submit such a question under said house bill and since under Section 5625-15, et seq., there is no authority for submitting this question at a primary election, said election was not legal.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

---

5712.

BOARD OF EDUCATION—UNAUTHORIZED TO CONTRACT  
WITH UNIVERSITY TO MAINTAIN IN DISTRICT  
SCHOOLS DEPARTMENT OF SUCH UNIVERSITY.

*SYLLABUS:*

*A district board of education is not authorized by Section 7650-1, General Code, or any other statute, to contract with a college or university located either within or without the district, to maintain within the district schools any department of the university.*

COLUMBUS, OHIO, June 16, 1936.

HON. J. O. ENGLEMAN, *President, Kent State University, Kent, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion, which reads as follows:

“The Board of Trustees of Kent State University, at its regular meeting here April 10th, by formal resolution authorized me to request from you an opinion as to the legality of a proposal for a new working relationship between the University and the Kent City Public Schools.

The arrangement now in effect and one that has been in