

2552.

TAX LEVY—RURAL SCHOOL DISTRICT AUTHORIZED TO LEVY BEYOND CERTAIN TAX LIMITATIONS—VILLAGE SCHOOL DISTRICT ANNEXED TO SUCH CONTIGUOUS RURAL SCHOOL DISTRICT—THEREAFTER TAX LEVY IN EXCESS OF CERTAIN TAX LIMITATIONS MAY BE SPREAD OVER ENTIRE TERRITORY OF NEW DISTRICT.

**SYLLABUS:**

*When a village school district containing a population of less than 1500, is annexed to a contiguous rural school district, by authority of Sections 4682-1 and 4683 of the General Code, and prior thereto, the board of education of the rural school district had been authorized to levy taxes beyond certain tax limitations, the said levy may thereafter be made in accordance with said power, on all the taxable property of the district as it exists after the annexation is completed.*

COLUMBUS, OHIO, November 19, 1930.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your request for my opinion which reads as follows:

“When, under the provisions of Section 4682-1, General Code, a village school district containing a population of less than 1,500, vote to dissolve, and join a contiguous rural school district, in the event that the rural district has, prior to the joining of the two districts, voted a three mill levy for a period of years, may this three mill levy continue to be assessed upon the entire district after the village district has been joined to the rural district?”

Sections 4682-1 and 4683, of the General Code of Ohio, read as follows:

“Sec. 4682-1. A village school district containing a population of less than fifteen hundred may vote at any general or special election to dissolve and join any contiguous rural district. After approval by the county board such proposition shall be submitted to the electors by the village board of education on the petition of one-fourth of the electors of such village school district or the village board may submit the proposition on its own motion and the result shall be determined by a majority vote of such electors.”

“Sec. 4683. When a village school district is dissolved, the territory formerly constituting such village district shall become a part of the contiguous rural district which it votes to join in accordance with Section 4682-1, and all school property shall pass to and become vested in the board of education of such rural school district.”

When territory is transferred by authority of the above statutes, the territory which formerly comprised the village school district is absorbed by the rural school district and becomes subject to the administration of the board of education of the rural district. That is to say, the board of education of the rural district which is not in any wise disturbed or changed by the annexation, possesses the same power of administration over the enlarged territory as it had formerly possessed with reference to the rural district before the annexation.

After the annexation it becomes the duty of this board of education to conduct the schools of the enlarged district and to levy taxes over the entire district as so

enlarged for that purpose. The territory coming into the district becomes subject to the jurisdiction of this board of education in school matters in the same manner and to the same extent as the territory which formerly constituted the district. It has been held that lands thus annexed are liable to local taxation on account of pre-existing debts of the subdivision to which the lands are annexed. *Blanchard, Treasurer, vs. Bissell*, 11 O. S. 96.

The board of education of the rural district, having been duly authorized to levy taxes beyond certain tax limitations, still possesses that same power after territory is annexed, to the district, in the absence of any statutory inhibition on that power, regardless of the manner by which such annexation is accomplished, and in my opinion that power authorizes the making of such levy upon all the lands embraced in the district.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

2553.

COUNTY FUNDS—TRANSFER THEREOF—NO AUTHORITY FOR TRANSFERRING UNAPPROPRIATED BALANCES IN A COUNTY ROAD FUND TO THE BOND RETIREMENT FUND TO MEET A DEFICIENCY THEREIN.

**SYLLABUS:**

*Unappropriated balances on hand in a county road fund may not be transferred to the bond retirement fund for the purpose of meeting a deficiency therein.*

COLUMBUS, OHIO, November 20, 1930.

HON. PAUL J. WORTMAN, *Prosecuting Attorney, Dayton, Ohio.*

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

“I would like your opinion on the following question:

On account of the great amount of delinquent taxes for special assessments for road paving and repairs, the Bond Retirement Fund to pay these obligations is exhausted. The county general fund is also short and there is no available money in this fund to pay these bonds.

We are, therefore, asking you for your written opinion as to the legality of paying road paving bonds and interest on same, including road bonds issued for paving roads and streets where the cost has been specially assessed and where funds are now short on account of heavy delinquencies of both general taxes and special assessments, out of any unappropriated balances in the county road funds, including road funds received from the levy made under Section 1222, General Code, as amended by the last session of the legislature, in Ohio Laws, Section 113, page 614.”

All outstanding serial bonds of a county of every specific issue, whether they be general tax bonds or special assessment bonds, must be paid out of the bond retirement fund. Section 5625-9, General Code, provides in part as follows:

“Each subdivision shall establish the following funds:

(a) General fund.