

2044.

TAX LEVY—BY SCHOOL DISTRICT FOR INTEREST, SINKING FUND OR RETIREMENT BONDS MAY BE OUTSIDE FIFTEEN MILL LIMITATION WHEN—EQUALIZATION OF REDUCTION IN AMOUNT OF TAXABLE PROPERTY.

SYLLABUS:

Where laws relating to taxation passed since January 1, 1931, have effected a reduction in the amount of taxable property available for levies by a school district for interest and sinking fund or retirement of bonds issued or authorized by it prior to such date within the statutory fifteen mill limitation, such levies may be outside the fifteen mill limitation now provided for in section 2, article XII of the Ohio Constitution, to the extent required to equalize such reduction.

COLUMBUS, OHIO, December 21, 1933.

HON. L. ASHLEY PELTON, *Prosecuting Attorney, Medina, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication in which you ask the following question:

“Under the provisions of the amendment of Article 12, Section 2, as adopted November 1929 election and going into effect January 1, 1931, is a school district entitled to have a portion of the levies for interest and sinking fund outside of limitations to the extent that the reduction in taxable property available has made a necessary raise in the tax rate?”

You further say that the taxable property available for levies on bonded indebtedness within the fifteen mill limitation in said district has been materially reduced by the operation of this amendment, and that the bonds were issued previous to January 1, 1931. The schedule to said amendment contains this clause:

“ * * * and levies for interest and sinking fund or retirement of bonds issued or authorized prior to said date, shall be outside of said limitation to the extent required to equalize any reduction in the amount of taxable property available for such levies, or in the rate imposed upon such property, effected by laws thereafter passed.”

Prior to the effective date of this amendment, all property, except that which was exempt from taxation, was required to be taxed by a uniform rule and according to its true value in money. Under this amendment, only land and improvements thereon need be so taxed and, in pursuance thereof, the legislature has passed law classifying intangible personal property so that different classes thereof are taxed at different rates, and also providing that certain kinds of tangible personal property shall be listed and assessed at certain percentages of its true value in money, to wit: fifty per cent, seventy per cent and one hundred per cent. The legislature has further provided by section 5626-2 that wherever taxing authorities of a subdivision are authorized to levy taxes on the taxable property therein, “such authority shall extend only to the levy of taxes on the taxable property listed on such general tax lists and duplicates and such taxing authorities shall not be authorized to levy taxes on the classified tax list and duplicate provided for by section 2587-1 of the General Code.”

Prior to the above amendment of section 2, Article XII, a bond issuing subdivision levied taxes on all the taxable property therein sufficient to pay the interest on and retire its bonds at maturity, while under section 5626-2 such levy now can only be made on the real, public utility and tangible personal property, so that, as a result of this enactment, intangible personal property is no longer available for levies by such subdivision.

It was apparently the intention of the electors in approving the schedule to this amendment that, in the event tax laws were passed pursuant to the amendment which would result either in the reduction in the amount of taxable property available for levies for interest and sinking fund or retirement of bonds issued or authorized prior to January 1, 1931, within the fifteen mill limitation, or in the reduction of the rate imposed upon such property, such levies should be made outside of said limitation to the extent required to equalize such reduction. Consequently, where such laws have effected a reduction in the amount of taxable property available for such levies, such levies may be made outside the fifteen mill limitations, but only to the extent required to equalize such reduction.

I am of the opinion, therefore, that where laws relating to taxation passed since January 1, 1931, have effected a reduction in the amount of taxable property available for levies by a school district for interest and sinking fund or retirement of bonds issued or authorized by it prior to such date within the statutory fifteen mill limitation, such levies may be outside the fifteen mill limitation now provided for in Section 2, article XII of the Ohio Constitution, to the extent required to equalize such reduction.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2045.

TUITION—CHILD RESIDING IN DISTRICT WITH RESIDENT THERE-
OF WHERE PARENTS RESIDE OUTSIDE DISTRICT, REQUIRED TO
PAY WHEN.

SYLLABUS:

1. *A child who resides permanently in the home of an actual resident of a school district and to which child such actual resident stands in loco parentis may attend the public schools of such district without paying tuition, even though the parents of such child reside outside the district.*

2. *Where the parents of the child place that child in a boarding house which is conducted as a business enterprise for profit and which lies outside the school district in which the parents reside, the child is not entitled to attend the schools of the district in which the boarding house is located without the payment of tuition.*

3. *Where the parents of a child place the child in a home outside the district of the residence of the parents, temporarily, and for the express purpose of that child attending school in the district where it has been placed, the parents are liable to the school district in question, for tuition for the child's attendance in school.*

COLUMBUS, OHIO, December 21, 1933.

HON. B. O. SKINNER, *Director of Education, Columbus, Ohio.*

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