

OPINION NO. 2000-027**Syllabus:**

Pursuant to R.C. 5705.313(A)(2), a board of county commissioners that has levied a sales tax pursuant to R.C. 5739.021 may subsequently reduce the rate of the county's levy on property for current expenses within the ten-mill limitation even though the board did not adopt an accompanying resolution reducing the property tax rate at the same time it adopted the resolution to levy the sales tax.

To: William E. Peelle, Clinton County Prosecuting Attorney, Wilmington, Ohio
By: Betty D. Montgomery, Attorney General, May 2, 2000

You have requested an opinion concerning the authority of a board of county commissioners to grant a property tax rate reduction after a county sales tax has been levied or increased. By way of background, you explain that in 1977 the board adopted a resolution levying a county sales tax of one-half percent. In 1988, the board adopted a resolution levying an additional one-half percent county sales tax. At the time the board adopted these resolutions, the board did not adopt an accompanying resolution reducing the rate of the county's property tax levied for current expenses within the ten-mill limitation.

Because of a significant increase in property values, the board of county commissioners would like to grant tax relief to county residents. In order to accomplish this objective, the board would like to reduce the rate of the county's levy on property for current expenses within the ten-mill limitation. In light of this background, you wish to know whether a board of county commissioners that has adopted a resolution to levy a sales tax pursuant to R.C. 5739.021 may subsequently reduce the rate of the county's levy on property for current expenses within the ten-mill limitation if the board did not adopt an accompany-

ing resolution reducing the property tax rate at the time it adopted the resolution to levy the sales tax.

Pursuant to R.C. 5705.313(A)(1), whenever a board of county commissioners adopts a resolution under R.C. 5739.021 to levy, or increase the rate of, a sales tax, the board may adopt an accompanying resolution reducing the rate of any property tax the county currently is levying for current expenses within the ten-mill limitation. R.C. 5705.313(A)(2) further states that at any time after a board of county commissioners has adopted a resolution pursuant to R.C. 5739.021 to levy, or increase the rate of, the sales tax, the board may adopt another resolution reducing the rate of any property tax the county currently is levying for current expenses within the ten-mill limitation. A resolution reducing the county's property tax rate "may be adopted *at any time* during which the county is levying the sales tax under [R.C. 5739.021]." R.C. 5705.313(A)(2) (emphasis added). If a board of county commissioners adopts a resolution reducing the rate of any property tax the county currently is levying for current expenses within the ten-mill limitation, no other taxing unit may levy any portion of the rate the county does not levy until the expiration of the rate reduction. R.C. 5705.313(B).

The plain language of R.C. 5705.313(A)(2) unequivocally provides that a resolution to reduce the rate of the county's levy on property for current expenses within the ten-mill limitation does not have to be adopted at the same time the board of county commissioners adopts a resolution pursuant to R.C. 5739.021 to levy, or increase the rate of, a sales tax. *See* Legislative Service Commission, Final Analysis on Am. Sub. S.B. 158, 121st Gen. A. (1996) (eff. May 8, 1996).¹ Instead, R.C. 5705.313(A)(2) permits a board of county commissioners to reduce the rate of any property tax the county currently is levying for current expenses within the ten-mill limitation at any time during which it imposes the sales tax. *See id.* Moreover, while the county's property tax rate is reduced, no other taxing unit may levy any portion of the rate the county does not levy until the expiration of the rate reduction. R.C. 5705.313(B).

Based on the foregoing, it is my opinion, and you are hereby advised that, pursuant to R.C. 5705.313(A)(2), a board of county commissioners that has levied a sales tax pursuant to R.C. 5739.021 may subsequently reduce the rate of the county's levy on property for current expenses within the ten-mill limitation even though the board did not adopt an accompanying resolution reducing the property tax rate at the same time it adopted the resolution to levy the sales tax.