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SCHOOL DISTRICT—TAX LEVY PURSUANT TO SECTION 5705.19, R.C.—CURRENT OPERATING REVENUES—NECESSARY TO QUALIFY DISTRICT UNDER CHAPTER 3317., R.C.—MAY BE VOTED FOR ANY NUMBER OF YEARS NOT EXCEEDING 10—TOTAL TAX LEVY FOR SUCH PURPOSE MAY THEN EXCEED MINIMUM REQUIRED IN SECTION 3317., R.C.

SYLLABUS:

A levy pursuant to Section 5705.19, Revised Code, for current operating revenues for a school district, may be voted for any number of years not exceeding ten when the levy or any part of such levy is necessary to qualify the school district under Chapter 3317., Revised Code, even though such levy will increase the total tax levy for current school operation to an amount in excess of the minimum required in Chapter 3317., Revised Code.

Columbus, Ohio, July 24, 1956

Hon. Calvin W. Hutchins, Prosecuting Attorney
Ashtabula County, Jefferson, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Paragraph 1, Section 3317.04 R. C., provides:—

“ ‘Any school district, which has a tax levy for current school operation of at least eight mills for the calendar year 1954 and ten mills for the calendar year 1955 and thereafter, shall be entitled to receive additional aid if it qualifies therefore, as provided by this section.’

“Section 5705.19 R. C., as effective October 6, 1955, provides, in part, as follows:—

“ ‘The number of years may be any number not exceeding five, except that when the additional rate is for the payment of debt charges the increased rate shall be for the life of the indebtedness and except when the additional rate is for the purpose of providing current operating revenues for a school district, as required in Chapter 3317 of the Revised Code the increased rate may be for any number of years not exceeding ten.’

“The question has arisen whether or not an additional levy may be voted for ten years, if the millage to be raised by such levy will increase the total tax levy for current school operation to an amount in excess of the ten mills required by Section 3317.04 referred to above.”

At the outset, it should be noted that Section 5705.19, Revised Code, was amended twice by the One Hundred and First General Assembly of Ohio. House Bill No. 528, effective September 20, 1955, reads in pertinent part:

“* * * The number of years may be any number not exceeding five, except that when the additional rate is for the

payment of debt charges the increased rate shall be for the life of the indebtedness.”

House Bill No. 874, effective October 6, 1955, reads in pertinent part:

“* * * The number of years may be any number not exceeding five, except that when the additional rate is for the payment of debt charges the increased rate shall be for the life of the indebtedness and except when the additional rate is for the purpose of providing current operating revenues for a school district, as required in Chapter 3317 of the Revised Code the increased rate may be for any number of years not exceeding ten.”

The general rule is that a statute later in time will be given preference over a statute earlier in time of passage. *State, ex rel. Guilbert v. Halliday*, 63 Ohio St., 165; *Rogers v. State, ex rel. Lucas*, 129 Ohio St., 108; Opinion No. 3372, Opinions of the Attorney General for 1953.

In view of the fact that the later enactment embodied the change contained in House Bill No. 528 plus the additional language, I am of the opinion that application of this general rule will give effect to the legislative intent.

Section 3317.04, Revised Code, is repealed to be effective October 1, 1956. 126 Ohio Laws, S. 321, Section 3.

Section 3317.02, Revised Code, effective October 1, 1956, reads in pertinent part:

“There shall be paid, in the last quarter of the calendar year 1956 and in each calendar year thereafter, to each local, exempted village and city school district, which has a tax levy for current school operation for the current calendar year of at least ten mills, the total sum of the following factors: * * *”

It would appear, however, that the question raised by your request would still be pertinent under the sections as they will read when effective October 1, 1956.

Sections 3317.04 and 3317.02, Revised Code, both speak of a tax levy for current school operation of at least ten mills. This language sets a qualifying minimum.

As long as the levy is for the purpose of providing current operating revenues for a school district as required in Chapter 3317., Revised Code, I see no reason why the levy could not be for more than the minimum of

the ten mills as set by Chapter 3317., Revised Code, and still be for any number of years not exceeding ten as provided for in Section 5705.19, Revised Code.

Therefore, it is my opinion and you are so advised that a levy pursuant to Section 5705.19, Revised Code, for current operating revenues for a school district, may be voted for any number of years not exceeding ten when the levy or any part of such levy is necessary to qualify the school district under Chapter 3317., Revised Code, even though such levy will increase the total tax levy for current school operation to an amount in excess of the minimum required in Chapter 3317., Revised Code.

Respectfully,

C. WILLIAM O'NEILL

Attorney General