

Frost
Brown Todd
ATTORNEYS

Township Levies 101

Emmett M. Kelly | February 6, 2020
Ohio Township Association – Winter Conference 2020

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General Power to Tax

- Ohio Constitution Article XII Section 2 grants authority to levy taxes on real property

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How are levies calculated?

- A percentage (the millage) of the assessed value of real property

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What is a mill?

- One mill is 1/1000th of one dollar (\$0.001) or 1/10 of a cent (1/10 of 1%)
- Mills are used as the rate to calculate the amount of property taxes on the assessed value of the property (the taxable value).

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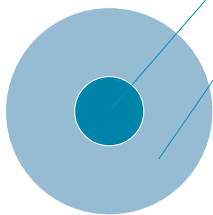
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Ten-Mill Limitation (R.C. 5705.02)

- Ohio limits the **total** amount of unvoted taxes which may levied on a single property to ten-mills or 0.1% of the property value

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Inside Millage: Taxes within the Ten-Mill Limitation (Unvoted)

Outside Millage: Taxes Outside Ten-Mill Limitation

To tax beyond the Ten-Mill Limitation – the Outside Millage – the tax must be approved by a public vote.

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Types of Levies

- **Additional:** New levy. Total tax rate on property is increased.
- **Renewal:** Continuance of the levy for the same purpose. The rate is usually the same but may be increased or decreased.
 - Same real property valuation from the original levy, which means there will be less collected due to the older valuation (Tax Reduction Factors at play)
- **Replacement:** Replaces existing levy, either a portion of the existing levy, the entire rate, or an increased rate
 - Updated real property valuation, so the collected amount should increase

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Levy Terms

- **Fixed-term:** for a period set by the statute, generally 5 years.
- **Continuing:** Permanent/ongoing.
- **Debt:** Until the debt is paid off.

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Levy Purposes

- **Four Main Purposes for voted tax levies in two categories:**

Fixed Rate

1. Current Expenses of the Township
2. Special Purpose (R.C. 5705.19 for list)

Fixed Sum

3. Emergency – School District Only
4. Debt – Bond Issues

Tax Reduction Factors: for fixed rate levies, the property is assessed at the property value of that year. Each subsequent year of the levy, the tax is reduced to charge the same amount as the valuation of the first year.

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Important Terms

Found in RC 5705.01

<p>Current Expenses</p> <p>“lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision”</p>	<p>Permanent Improvements</p> <p>“any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more”</p>
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Common Township Levy Purposes

- Current Expenses (5705.19(A))
- Operation and Maintenance of Police Department (5705.19(J))
- Fire Protection Services and Equipment (5705.19(I))
- Ambulance and Emergency Medical Services (5705.19(U))
- Streets, Roads and Bridges (5705.19(G))
 - Construction, repair, resurfacing and equipment
- Parks and recreation (5705.19(H))
 - Includes trails, and bike paths (5705.19(OO))
- Operation and Maintenance of Cemeteries (5705.19(I))

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Additional Township Levy Purposes

- Senior citizen services or facilities (5705.19(Y))
- Upkeep of township community center (5705.19(DD))
- Permanent improvements of township buildings (5705.19(F))
- Protect & preserve natural scenic open or wood conditions in land, water or wetlands (5705.19(HH))
- Sewage Facilities (5705.19(P))
- Garbage and Refuse Collection, including Yard Waste (5705.19(V))

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Other Permissible Township Levy Purposes

- Air pollution abatement or prevention (5705.19(S))
- Acquiring and rehabilitating rail property (5705.19(CC))
- Township Airport Operation (5705.19(F))
- Public Library Operation (5705.19(D))
- Regional Planning (5705.19(M))
- Flood Defense (5705.19(C))
- Maintenance and operation of a free public museum of art, science, or history (5705.19(AA))
- Constructing, maintaining, repairing, or operating a water supply improvement (5705.19(GG))
- Drilling an oil or gas well (505.20)
- Construction and maintenance of footbridges (505.47)
- Maintain a house for a resident physician when inaccessible from the mainland (505.14)

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Catch-All Provision of RC 5705.19(ZZ)

“For any combination of the following purposes:

- the acquisition, construction, improvement, or maintenance of buildings, equipment, and supplies for police, firefighting, or emergency medical services;
- the construction, reconstruction, resurfacing, or repair of streets, roads, and bridges; or
- for general infrastructure projects.

This division applies only to a township or municipal corporation.”

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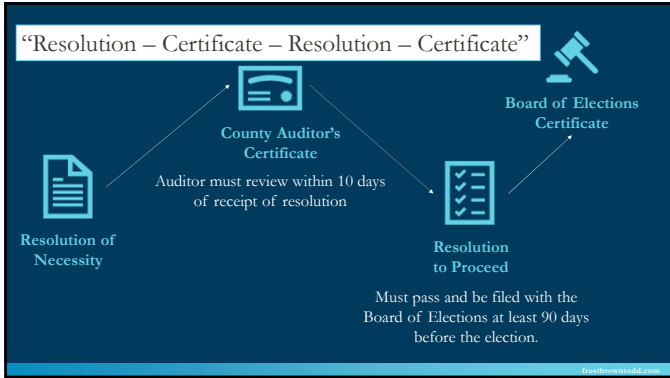
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Levy Purposes – Bond Issues

- Debt issued for township expenses
- Levy used to pay the debt over time
- Bond issuance allows for the funds to be obtained up front, rather than annually through property tax assessments

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Resolution of Necessity

Resolution must contain:


- **Need** - A statement that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation
- **Purpose** - The purpose of the levy
 - Caution: if you limit the purpose of the levy in the resolution of necessity, you limit the purposes for which the revenue can be expended
- **ORC Authorization** - The Section of the Revised Code which authorizes the levy
- **Levy Type**: additional, renewal, or replacement
- **Term**- Term of levy – number of years or permanent/ongoing
- **Election Date** - The date of the election where the levy will appear on the ballot
- **Territory** - The territory of the tax levy: the entire territory of the subdivision or, if allowed, a description of the portion of the territory of the subdivision
- **Commencement** - The tax year in which the tax will first be levied and the calendar year in which the tax will first be collected
- **County** - Each such county in which the subdivision has territory

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County Auditor's Certificate

- The auditor must issue the certification within 10 days of receipt of the request
- The auditor certifies:
 - Anticipated revenue
 - Levy rate
 - Levy type
- The certification also includes information necessary for the ballot
 - Mills per dollar of value
 - Cents per \$100 dollars of value

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Resolution to Proceed

Using the information from the County Auditor, a resolution contains:

- The rate of the tax levy, expressed in mills for each one dollar in tax valuation as estimated by the county auditor
- A statement the township will proceed with the submission of the question of the tax to electors.
- Generally includes the ballot language

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2020 Ohio Election Schedule

Primary Election Day March 17, 2020	Optional Special Election August 4, 2020	General Election Day November 3, 2019
90 Days Before Election December 18, 2019	90 Days Before Election May 6, 2020	90 Days Before Election August 5, 2020

Local questions and issues for the election must be certified to or filed with boards of elections by 4 p.m.

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Remember: Must file the resolutions *and* Certification with the Board of Elections.

(Until January 1, 2021, must be in paper form)

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Form of Levy Ballot Language – Roadmap in R.C. 5705.25

An [additional] tax for the benefit of [Township] for the purpose of [purpose stated in the resolution] at a rate not exceeding [] mills for each one dollar of valuation, which amounts to [rate expressed in dollars and cents] for each one hundred dollars of valuation, for [life of indebtedness or number of years the levy is to run].

FOR THE TAX LEVY
AGAINST THE TAX LEVY

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FOR THE TAX LEVY
AGAINST THE TAX LEVY

Renewal Language:
 Straight – “A renewal of a”
 Increase – “A renewal of [] mills and an increase of [] mills to constitute a”
 Decrease – “A renewal of part of an existing levy, being a reduction of [] mills, to constitute a”
 Multiple – “a renewal of [insert the number of levies to be renewed] existing taxes.”

Replacement Language (R.C. 5705.192):
 Straight – “A replacement of a”
 Increase – “A replacement of [] mills of an existing levy and an increase of [] mills to constitute a”
 Portion – “A replacement of a portion of an existing levy, being a reduction of [] mills, to constitute a”

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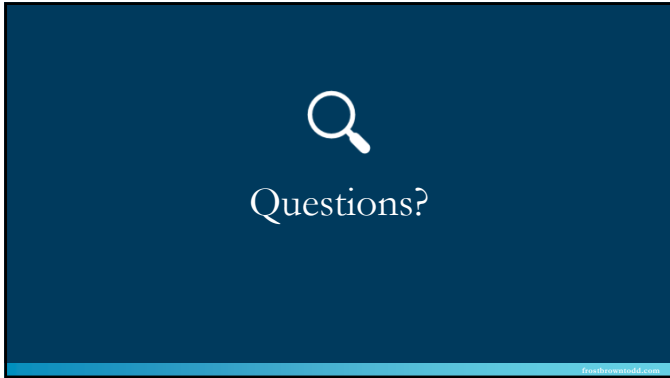
FOR THE TAX LEVY
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If the levy is to be in effect for a continuing period of time, the notice of election and the form of ballot shall so state instead of setting forth a specified number of years for the levy.

If the tax is to be placed on the current tax list, modify the last statement by adding the phrase “, commencing in [first year the tax is to be levied], first due in calendar year [first calendar year in which the tax shall be due].”

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