

## Tax Levies

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Ohio Secretary of State



### GENERALLY

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The authority for levying taxes on real property, and for limiting or exempting certain types of real property from taxation, is set forth in [\*Section 2 of Article XII of the Ohio Constitution\*](#):

"No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of permanently and totally disabled residents, residents sixty-five years of age and older, and residents sixty years of age or older who are surviving spouses of deceased residents who were sixty-five years of age or older or permanently and totally disabled and receiving a reduction in the value of their homestead at the time of death, provided the surviving spouse continues to reside in a qualifying homestead, and providing for income and other qualifications to obtain such reduction. Without





limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law.”

Provisions throughout the Revised Code authorize taxing authorities of various political subdivisions to levy taxes for specific purposes and for specified periods of time. [Appendix A](#) contains the statutory authority for many of the subdivisions’ taxing powers and purposes.

### **A. Ten-mill limitation**

The language of [Article XII, Section 2](#) provides the general authority for levying property taxes up to and including 10 mills – that is, “one per cent” of the property’s “true value in money” – without prior approval of the electorate. This chapter focuses on the levies that would exceed the “ten-mill limitation” and therefore be submitted to, and approved by, a vote of the people before they could be collected.

[R.C. 5705.02](#) sets forth the statutory definition of the ten-mill limitation as follows:

The aggregate amount of taxes that may be levied on any taxable property in any subdivision or other taxing unit shall not in any one year exceed ten mills on each dollar of tax valuation of such subdivision or other taxing unit, except for taxes specifically authorized to be levied in excess thereof. The limitation provided by this section shall be known as the “ten-mill limitation,” and wherever said term is used in the Revised Code, it refers to and includes both the limitation imposed by this section and the limitation imposed by [Section 2 of Article XII, Ohio Constitution](#).





## B. Uniform tax levy laws

Although there are provisions throughout the Revised Code authorizing elections on property tax questions for particular purposes, the tax levies most frequently certified to the ballot are provided for in the uniform tax levy law contained in [Revised Code Chapter 5705](#).

### 1. Definitions

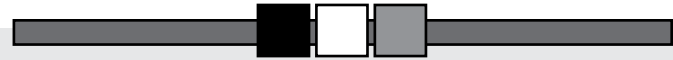
[R.C. 5705.01](#) sets forth the definitions of certain terms used in [Revised Code Chapter 5705](#), including the following, but not limited to:

- a. subdivision
- b. municipal corporation
- c. taxing authority or bond issuing authority
- d. fiscal officer
- e. permanent improvement or improvement
- f. current operating expenses and current expense
- g. debt charges
- h. taxing unit
- i. district authority
- j. tax list and tax duplicate
- k. property (as applied to a tax levy)
- l. association library district
- m. library district
- n. qualifying library levy
- o. school library district

Using these terms as they are defined in law promotes both compliance with the governing legal provisions and mutual understanding among election officials, taxing authorities and their legal counsel regarding the questions and issues to be submitted to the voters. Election officials must

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apply these statutory definitions when preparing ballot language for resolutions or ordinances certifying tax issues to the ballot.

2. *Statutory taxing authorities*

The taxing authority of any political subdivision may issue tax levies authorized in excess of the 10-mill limitation by a vote of the people under the applicable law, irrespective of all limitations on tax rate. The entity designated as the taxing authority for most political subdivisions is found in [R.C. 5705.01\(C\)](#); for example, the board of county commissioners is designated as the taxing authority for the county. Other political subdivisions are designated a “taxing authority” for specific sections of [R.C. Chapter 5705](#). For example, a board of education may be designated the taxing authority for a particular public library.

### C. Special elections

1. *Definition*

The term “special election” is defined in Ohio’s election law to mean “any election other than those elections defined in other divisions of this section.”<sup>1</sup> The “other elections” defined in [R.C. 3501.01](#) are the “general election,” “regular municipal election,” “regular state election,” “primary election” and “presidential primary election.”

Because all “other elections” involve the nomination or election of candidates, the term “special election” generally has come to be accepted to mean an election on questions and issues. However, some provisions of Ohio’s election laws use the term “special election” in a different context; for example, the provisions relating to special elections held to fill vacancies in congressional nominations<sup>2</sup> and offices.<sup>3</sup>

2. *Dates of election*

The statutory guidelines for when to hold special elections are set forth in

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<sup>1</sup> [R.C. 3501.01\(D\)](#).

<sup>2</sup> [R.C. 3513.301](#).

<sup>3</sup> [R.C. 3521.02, 3521.03](#).





[R.C. 3501.01\(D\)](#) and [R.C. 3501.02\(E\)](#). Those statutes, read together, provide that special elections may be held on the following dates:

- In non-presidential primary years, on the first Tuesday after the first Monday in May, August, and November, or on the day authorized by a particular municipal or county charter for the holding of a primary election.
- In a presidential primary year, on the second Tuesday after the first Monday in March (the day of the presidential primary election), or the first Tuesday after the first Monday in August and November. No special election shall be held in May of a presidential primary year, except as authorized by a municipal or county charter.

## **TYPES OF REAL PROPERTY TAX LEVIES**

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Ohio law provides generally for three classifications of tax levies on real property:

### **A. Additional levy**

The taxing authority may seek approval of a tax that the taxing authority is authorized to levy and which is not already being collected. This tax will be collected in addition to other existing taxes.

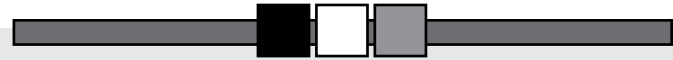
Absent legal authority providing otherwise, an additional levy must be submitted to voters at a general election.<sup>4</sup> However, an additional levy authorized by [R.C. 5705.191](#) may be submitted at a general, primary, or special election on the day specified in the resolution.<sup>5</sup>

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<sup>4</sup> [R.C. 5705.25](#).

<sup>5</sup> [Please refer to 3. Special procedures for certain levies in subdivisions other than school districts on page 2-12.](#)





## B. Renewal levy

A taxing authority may propose to renew all or a portion of an existing tax that the taxing authority is authorized to levy. The tax will continue to be levied based on the same rate of real property valuation.

Generally, a renewal levy may be submitted to the voters at the general election held in the last year the tax to be renewed may be extended on the real and public utility property tax list and duplicate (the last tax year) or at any election in the ensuing year (the last collection year).<sup>6</sup> Exceptions to the general rule limiting when a renewal levy may be placed on the ballot include resolutions to:

- Renew and increase, or renew part of, an existing levy that was imposed under [R.C. 5705.191](#) to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals.
- Renew two or more existing levies imposed under [R.C. 5705.222](#) or division (L) of [R.C. 5705.19](#), or under [R.C. 5705.21](#) or [R.C. 5705.217](#). In this case, the question shall be submitted on the date of the general or primary election held during the last year that at least one of the levies to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an existing levy through the year following the last year it can be placed on that tax list and duplicate.

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<sup>6</sup> [R.C. 5705.25](#).





## C. Replacement levy<sup>7</sup>

### 1. Generally

A taxing authority may propose to replace all or a portion of an existing tax that it is authorized to levy, with the exception of a school district emergency levy under [R.C. 5705.194](#) to [5705.197](#). A replacement levy is a levy for the same purpose as an existing levy but with a different collection rate than the levy it replaces. For the purpose of [R.C. 5705.192](#) only, a township board of park commissioners is considered a “taxing authority.”

The taxing authority may propose to replace all or a portion of an existing levy:

- At the collection rate at which it is authorized to be levied (replacement).
- At a lesser rate (replacement and decrease).
- At an increased rate (replacement and increase).

Except as otherwise provided in [R.C. 5705.192\(B\)](#), a replacement levy is limited to the purpose of the existing levy and shall appear separately on the ballot from (and shall not be conjoined with) the renewal of any other levy. In the case of an existing school district levy imposed under [R.C. 5705.21](#) for the purpose specified in [R.C. 5705.19\(F\)](#), or in the case of an existing school district levy imposed under [R.C. 5705.217](#) for the acquisition, construction, enlargement, renovation, and financing of permanent improvements, the replacement for that existing levy may be for the same purpose or for the purpose of general permanent improvements as defined in [R.C. 5705.21](#).

The replacement for an existing levy imposed under division under [R.C. 5705.19\(L\)](#) or [R.C. 5705.222](#) may be for any purpose authorized for a levy imposed under [R.C. 5705.222](#).

<sup>7</sup> [R.C. 5705.192](#).





2. *Basic requirements:*

- a. The proposed replacement levy must be for the same purpose as the original levy. (See exceptions listed above.)
- b. The proposed levy must be called a replacement levy and designated as such on the ballot.
- c. The resolution and ballot must state whether the levy is an increase, a decrease, or at the same rate as the original levy. The length of time must also be stated.
- d. A replacement levy may combine two or more existing levies, or any portion of those levies, as long as all of the existing levies are for the same purpose and expire the same tax year or all are for a continuing period of time.
- e. Ballot language is prescribed in [R.C. 5705.192](#).<sup>8</sup>

3. *Timing of levy*

- a. For replacement of a levy for a fixed term of years, the election must be either the general election in the last tax year, or any election in the last collection year.
- b. For replacement of a levy for a continuing period of time, the election can be any time after the year the levy was originally approved, but there may be only one such election per calendar year. Failure of the voters to approve a replacement of a levy imposed for a continuing period of time does not terminate the existing continuing levy.

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<sup>8</sup> [See Appendix B for suggested ballot language.](#)



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## LENGTH OF LEVY

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The time that taxes may be levied will vary, depending on the governing law. Some taxes may be levied only for a fixed number of years; others may be levied for either a fixed number of years or a continuing period of time. Elections officials must consult the statutes governing each tax levy that is certified to the ballot to ensure that the taxing authority's resolution incorporates the correct length of time for levying the tax.

Most levies under [R.C. 5705.19](#) may be levied for a period of up to five years. Levies under [R.C. 5705.194](#) can be levied for a period of ten years or less. Levies under [R.C. 5705.21](#) may be levied for a period up to five years, except for current expenses or general permanent improvements, in which case the tax may be levied for a continuing period of time.

## PROCEDURE - REQUIREMENTS

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The procedural steps required to submit to the voters a question about levying a property tax vary according to the purpose of the levy and the type of subdivision.

### A. Basic procedural requirements

[R.C. 5705.03\(B\)](#) sets forth the basic procedural requirements to be followed by a taxing authority that wants to levy a tax outside the 10-mill limitation for any purpose authorized by the Revised Code.

As illustrated below, the order in which a taxing authority completes the statutory procedural requirements for having a tax levy placed on the ballot is "resolution – certification – resolution – certification:"

1. *RESOLUTION of Necessity adopted by the Taxing Authority and certified to County Auditor*  
The taxing authority must adopt a resolution or ordinance declaring it necessary to levy a tax outside the 10-mill limitation and requesting the





county auditor to certify to the taxing authority the total current tax valuation of the subdivision, and the number of mills required to generate a specified amount of revenue, or the dollar amount of revenue that would be generated by a specified number of mills.

The resolution or ordinance of necessity must include all the following:

- The purpose of the tax;
- Whether the tax is an additional levy, a renewal of an existing tax or a replacement of an existing tax or a renewal or replacement of an existing tax with an increase or decrease;
- The section of the Revised Code authorizing submission of the question of the tax for a particular purpose; e.g., [R.C. 5705.19\(A\)](#) for current expenses, [R.C. 5705.194](#) for an emergency levy, etc.;
- The term of years of the tax or if the tax is for continuing period of time;
- That the tax is levied upon the entire territory of the subdivision or, if authorized by the Revised Code, a description of the portion of the territory of the subdivision to which the tax is to be levied;
- The date of the election at which the question of the tax shall appear on the ballot;
- That the ballot measure shall be submitted to the entire territory of the subdivision or, if authorized by the Revised Code, a description of the portion of the territory of the subdivision to which the ballot measure shall be submitted; and
- The tax year in which the tax will first be levied and the calendar year in which the tax will first be collected.

The taxing authority must certify its resolution of necessity or ordinance to the county auditor.





2. *CERTIFICATION by the County Auditor*

The county auditor must issue the certification to the taxing authority within 10 days after receiving the taxing authority's resolution or ordinance requesting it. If the subdivision is located in more than one county, the county auditor must obtain from the county auditor of each other county in which the subdivision is located the current tax valuation for the portion of the subdivision in that county.

The procedures of [R.C. 5705.03](#) are supplemental to, and not in derogation of, any similar requirement governing the certification by the county auditor of the tax valuation of a subdivision or necessary tax rates for the purposes of the submission of the question of a tax in excess of the 10-mill limitation, including [R.C. 133.18](#) (issuance of general obligation bonds) and [R.C. 5705.195](#) (school levies).

3. *RESOLUTION to Proceed of the Taxing Authority*

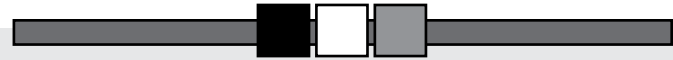
If, after receiving the certification from the county auditor, the taxing authority decides to submit the question of the tax to the voters, the taxing authority shall adopt a resolution or ordinance stating its intention to proceed with the ballot issue. The resolution to proceed shall include the rate of the tax levy, expressed in mills for each one dollar in tax valuation as estimated by the county auditor.

4. *CERTIFICATION by the Taxing Authority to the Board of Elections and County Auditor*

The taxing authority shall certify its resolution or ordinance to proceed, copy of the auditor's certificate, and the resolution of necessity to the proper board of elections in the manner and within the time prescribed by the section of the Revised Code governing submission of the question. Most certifications to proceed will be governed by the time and manner provisions of [R.C. 3501.02\(F\)](#), which requires that any question or issue to be voted upon at an election shall be certified to the board of elections not later than 4 p.m. of the 90th day before the day of the election. Notwithstanding any provision of the Revised Code to the contrary, a

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political subdivision or other entity that certifies a question or issue to a board of elections for placement on the ballot shall make the certification in paper form. A board of elections shall not accept such certification in electronic form.<sup>9</sup>

A copy of the county auditor's certification must accompany the certified resolution to proceed when that resolution is filed with the board of elections. A board of elections is specifically prohibited from submitting the question of the tax to electors unless a copy of the county auditor's certification accompanies the resolution or ordinance the taxing authority certifies to the board.<sup>10</sup>

## **B. Taxing authorities other than school districts, county school financing districts and lake facility authorities<sup>11</sup>**

### 1. *Purposes*

Many of the purposes for which a taxing authority other than a school district, county school financing district or lake facility authority may levy a tax are set forth in [R.C. 5705.19](#).

### 2. *Resolution to proceed<sup>12</sup>*

After complying with [R.C. 5705.03](#), the taxing authority shall adopt a resolution to proceed by a two-thirds vote of all its members and certify that resolution to the board of elections not later than 4 p.m. of the 90th day before the election upon which it will be voted. The resolution must conform to the following requirements:

- a. Be confined to one of the purposes, to which all revenue from the levy will be applied.

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<sup>9</sup> [R.C. 3501.021](#) *State ex rel. Orange Twp. Bd. of Trustees v. Delaware Cty. Bd. of Elections* 135 Ohio St. 3d 162 (2013 ).

<sup>10</sup> [R.C. 5705.03](#).

<sup>11</sup> [See C under this heading for school districts and county financing districts.](#)

<sup>12</sup> [R.C. 5705.03](#), [R.C. 5705.19](#).





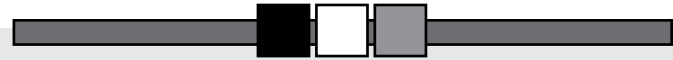
- b. Declare that the amount of taxes which may be raised within the 10-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and it is necessary to levy a tax in excess of the limitation.
  - c. State the purpose of the levy, the proposed rate in mills, the number of years during which the levy will be in effect, and the commencing tax year.
  - d. A majority vote is required for passage.
  - e. Although not required, it is recommended that the resolution to proceed set forth the section of the Revised Code that authorizes the tax. This information is necessary for the board of elections to prepare correct ballot language and format as prescribed in [R.C. 5705.25](#).
3. *Special procedures for certain levies in subdivisions other than school districts*

[R.C. 5705.191](#) allows subdivisions other than school districts and county school financing districts to request submission of a tax levy under special circumstances. The levy may be for any of the purposes authorized by [R.C. 5705.19](#) or to supplement the general fund for the purpose of making appropriations for public assistance, human or social services, relief, welfare, hospitalization, health, and support of general or tuberculosis hospitals.

a. *Resolution*

The resolution to proceed must be adopted by a two-thirds vote of the members of the taxing authority of the subdivision and certified to the board of elections of the proper county no later than 4 p.m. of the 90th day before the election. The resolution must declare the amount of taxes which may be raised within the 10-mill limitation by levies on the current tax duplicate is insufficient, state the purpose,





and declare that an additional tax in excess of the limitation is necessary. The resolution cannot call for a levy on the current tax list unless the election is held prior to, or at, the general election.

b. *Election*

- i. The election may be held at a general, primary, or special election on the day specified in the resolution.
- ii. Only one special election for a levy authorized by [R.C. 5705.191](#) may be held in any calendar year, and a special election may be held on the same day as a primary election.
- iii. The election must be conducted in the manner provided by [R.C. 5705.25](#).
- iv. Levies authorized by [R.C. 5705.191](#) require a majority vote for passage.

4. *Timing of election*<sup>13</sup>

A board of elections that timely receives the certified copy of a proper resolution must make the necessary arrangements for submitting the question to the voters of the subdivision.

Questions of additional taxes submitted to the voters under the authority of [R.C. 5705.19](#) and [5705.191](#) will be placed on the ballot at the next general election or at times other than a general election as permitted by [R.C. 5705.191](#).

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<sup>13</sup> [R.C. 3501.02](#), [R.C. 5705.25](#).





## C. School districts

1. *Regular (non-emergency) levy*<sup>14</sup>
  - a. A board of education may submit a tax levy at a special, primary or general election by a vote of two-thirds of its members. The levy must be for a single purpose specified in divisions (A), (D), (F), (H) or (DD) of R.C. 5705.19; for general permanent improvements; for the purpose of operating a cultural center; for the purpose of providing for school safety and security; or for the purpose of providing education technology.
  - b. The resolution must specify the date of the election, which may not be earlier than 90 days after adoption and certification of the resolution.
  - c. The election may be held during a general, primary, or special election, but cannot be submitted to the voters more than three times in any calendar year.<sup>15</sup>
  - d. The number of years the levy is to be in effect must be specified and cannot exceed five unless the purpose of the levy is for current operating expenses or general permanent improvements, in which case the levy may also be for a continuing period of time.
  - e. The amount of the increase in tax must be specified.
2. *Municipal school district and partnering community schools*<sup>16</sup>
  - a. The board of education of a municipal school district may levy a tax for the purpose of paying the current expenses of the district and of partnering community schools.

**Note:** A qualifying school district that is not a municipal school district may allocate all levy proceeds to the partnering community schools.

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<sup>14</sup> R.C. 5705.21(A).

<sup>15</sup> R.C. 5705.214.

<sup>16</sup> R.C. 5705.21(B).





- b. The question of the additional tax levy shall be submitted to the electors of the school district at a special election on a day specified in the resolution.
  - c. The resolution shall state the purpose of the levy, the rate of the tax expressed in mills per dollar of taxable value, the number of such mills to be levied for the current expenses of the partnering community schools and the number of such mills to be levied for the current expenses of the school district, the number of years the tax will be levied, and the first year the tax will be levied.
  - d. The number of years the tax may be levied may be any number not exceeding 10 years, or for a continuing period of time.
  - e. The form of the ballot for this ballot issue is set forth in [R.C. 5705.21\(B\)\(2\)](#).
  - f. The notice of election shall state the number of the mills to be levied for the current expenses of partnering community schools and the number of the mills to be levied for the current expenses of the municipal school district.
  - g. In the case of a resolution adopted under [R.C. 5705.21\(B\)](#), a levy for a continuing period of time may be reduced pursuant to [R.C. 5705.261](#).
3. *Emergency levy*<sup>17</sup>
- [R.C. 5705.194](#) permits a board of education to submit a tax levy in excess of the 10-mill limitation if the total revenue produced by authorized tax levies, plus state and federal assistance, will be insufficient to provide for the emergency requirements of the school district or to avoid an operating deficit. The resolution must specify a single purpose; the purposes are set forth in [R.C. 5705.194](#).

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<sup>17</sup> [R.C. 5705.194](#).







The resolution may be adopted at any time but a resolution under this section may not be submitted more than three times in one calendar year.<sup>18</sup> The number of years in which the levy will be collected may not exceed 10.

A school district may renew an existing emergency levy. A single levy may be placed on the ballot during the last year it may be extended on the tax list and duplicate (the last “tax year”). The question may not appear on an August special election ballot during that year, but may appear at any election in the ensuing year (the last “collection year”).

Two or more existing levies for the same purpose may be included in a renewal levy. The combined levies may appear on the ballot at a primary or general election during the last year one of the levies being renewed is in its last year of extension on the tax list and duplicate or at any election in the ensuing year. The purpose of a renewal levy combining two or more levies may be either to provide for emergency requirements or to avoid an operating deficit, regardless of the original purpose.

The resolution must specify the date of holding the election, which cannot be earlier than 80 days after the adoption and certification of the resolution to the county auditor. The resolution must state the amount of money necessary for the specified purpose, the millage to be imposed, number of years the tax will be imposed and the date of the election.

If a renewal levy, the resolution must also state if the levy is to renew all or portion of the existing levy or an increase or renewing multiple levies.

**R.C. 5705.197** prescribes the form of the ballot. The purpose must be printed in bold face type, at least twice the size of the other text.

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<sup>18</sup> **R.C. 5705.214**.





## D. Special duties of board of elections

1. *Confirm the year in which a levy expires*

While it is the responsibility of the taxing authority to know the last year a current levy appears on the tax duplicate, it is recommended that a board of elections obtain the county auditor's list of tax levies in the final tax year and last collection year.

2. *Publication*

The notice requirements for tax levy questions vary depending on the code sections under which they are submitted.<sup>19</sup>

a. In general, the provisions of [R.C. 5705.25\(A\)](#) will apply. This section requires the board of elections to publish notice of the election as follows:

- i. In a newspaper of general circulation in the subdivision once a week for two consecutive weeks, or as provided in [R.C. 7.16](#), prior to the election.
- ii. If the board of elections operates and maintains a website, the board must post notice of the election on its website for 30 days before the election.

The notice must state the purpose, the proposed increase in rate (expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation), the number of years during which the increase will be in effect, first month and year in which the tax will be levied, and the time and place of the election.

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<sup>19</sup> [See Appendix A.](#)





- b. If the specific section authorizing the tax levy election is silent concerning public notification, [R.C. 3501.03](#) applies. This section requires the board of elections to give public notice at least 10 days before the time for holding an election. The public may be notified by a proclamation, posted in a conspicuous place in the courthouse or city hall, or in a newspaper published in the county. If no newspaper is published in the county, then the proclamation must be published in any newspaper of general circulation within the county.

