

Bond Case Briefs

Municipal Finance Law Since 1971

TAX - OHIO

State ex rel. North Canton City Council v. Stark County Board of Elections

Supreme Court of Ohio - March 10, 2023 - N.E.3d - 2023 WL 2436806 - 2023-Ohio-726

City council brought expedited election action against county board of elections seeking writ of mandamus to order board to place two proposed tax levies on the primary-election ballot.

The Supreme Court held that:

- City council had statutory authority to bring suit against county board of elections for writ of mandamus;
- City council lacked adequate remedy in ordinary course of law; but
- City council's proposed tax levies were not imposed to supplement city's general fund, and, thus, city council was not entitled to writ of mandamus.

City council had statutory authority to bring suit against county board of elections for writ of mandamus to order county to place two proposed tax levies on primary-election ballot; city council had taxing authority to declare need to levy tax in excess of ten-mill limitation and to certify resolutions to that effect to board of elections for submission to city's voters, board's refusal to place levies on ballot made council the aggrieved party because its resolution for tax levy was not being carried into effect, and mandamus action was appropriate to effectuate council's resolutions.

City council lacked adequate remedy in ordinary course of law, as required for council to obtain writ of mandamus, in expedited election action to order county board of elections to place two proposed tax levies on primary-election ballot, given proximity of primary election.

City council's proposed tax levies were not imposed to supplement city's general fund, and, thus, council was not entitled to writ of mandamus ordering county board of elections to place levies on primary-election ballot; proposed levies were for city's roads and storm-sewer services and were to replace existing levies imposed for street maintenance and flood prevention and defense, existing levies were not imposed for purpose of supplementing city's general fund, all revenue from existing levies was to be credited to special funds related to purpose for each levy, and council did not show that revenue from existing levies was credited in way other than what was required by statute, and, thus, proposed levies did not qualify for exception to be placed on primary-election ballot.