

# Bond Case Briefs

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## **TAX - OHIO**

### **State ex rel. Board of Education of Ottawa Hills Local School District v. Lucas County Board of Elections**

**Supreme Court of Ohio - September 15, 2023 - N.E.3d - 2023 WL 5992985 - 2023-Ohio-3286**

School district's board of education sought writ of mandamus ordering county board of elections to place tax levy on ballot for general election.

The Supreme Court held that:

- Board of education lacked adequate remedy in ordinary course of law;
- Board of education did not strictly comply with its statutory obligations to place tax levy on ballot; and
- Board's errors were not technical errors, and, thus, board was not entitled to writ of mandamus.

Mandamus is an appropriate remedy to compel a board of elections to place a tax levy on the ballot.

As a general matter, if a taxing authority such as a board of education does not timely certify a resolution to proceed with a levy to the board of elections, the board of elections may not place the levy on the ballot.

Neither statute setting process for taxing authority to have tax levy placed on ballot and nor statute setting deadline for certification of issue to board of elections permit substantial compliance, and, thus, strict compliance with those statutes is generally required for a board of education to have a tax levy placed on the ballot.

School district's board of education did not strictly comply with its statutory obligations to place tax levy on ballot for general election, and, thus, board of education was not entitled to writ of mandamus to compel board of elections to place tax levy on ballot for general election, although board argued that incorrect estimate rate for levy for each \$100,000 of property value was scrivener's error; board's resolution to proceed included rate for levy of 10.9 mills, not for approved levy of 12.9 mills, there was no evidence that error was scrivener's error, and board passed new resolution with correct levy rate seven days after certification deadline.

Errors by school district's board of education in including incorrect tax levy rate and by approving correct rate seven days after certification deadline were not technical errors that did not affect requirements of election statutes, and, thus, board was not entitled to writ of mandamus to compel board of elections to place levy on ballot for general election; by not passing correct levy rate until seven days after statutory certification deadline, board denied public its full statutory time to review levy, allowing certification of levy seven days after statutory deadline would create uncertainty in election administration, and inaccuracy in levy rate of \$382 for each \$100,000 of property value, instead of correct rate of \$452 for each \$100,000 of property value, was not de minimis.

