

# **Bond Case Briefs**

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## **TAX - OHIO**

### **State ex rel. New Carlisle v. Clark County Board of Elections**

**Supreme Court of Ohio - March 11, 2025 - 178 Ohio St.3d 289 - 258 N.E.3d 361 - 2025-Ohio-814**

Relator, a city, filed mandamus action against county board of elections and its director, seeking an order requiring board to place city's proposed income tax levy on primary and special election ballot.

The Supreme Court held that:

- City lacked adequate remedy in ordinary course of law absent writ of mandamus ordering board to place city's proposed levy on ballot;
- Provision governing the levying of municipal income tax in excess of one percent only required municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on; and
- Board of elections "clearly disregarded applicable law" by improperly requiring city to pass ordinance before submitting it to voters and, thus, city was entitled to writ of mandamus ordering board to place proposed levy on ballot.

City lacked "adequate remedy" in ordinary course of law absent writ of mandamus ordering county board of elections to place city's proposed income tax levy on primary and special election ballot, where election was less than two months away at time of decision.

Statutory provision governing the levying of municipal income tax in excess of one percent does not require municipality to file with board a "copy of the ordinance" that city had already enacted and wanted to present to municipality's electors for passage but, rather, only requires municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on.

Statutory provision governing the levying of municipal income tax in excess of one percent required municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on, despite contention that it was possible for both city council and city's voters to "pass" the ordinance; under provision, ordinance to levy excess municipal income tax could not be effective unless it was first approved by voters.

Statutory provision governing the levying of municipal income tax in excess of one percent required municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on, despite contention that provision called for "a copy of the ordinance," not a copy of the "proposed ordinance," to be filed with board; ordinance the municipality had to submit to board with resolution under provision was necessarily a "proposed ordinance," because ordinance could not be passed without voter approval, such that absence of word "proposed" to describe ordinance referred to in provision was immaterial.

County board of elections “clearly disregarded applicable law,” when it refused to place city’s proposed income tax levy on primary and special election ballot, by improperly requiring city to pass ordinance before submitting it to voters and, thus, city was entitled to writ of mandamus ordering board to place levy on ballot; governing statutory provision only required city to timely file with board a resolution directing board to conduct election on specified date, as well as copy of ordinance the city’s electors would be voting on.

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