



Ohio Supreme Court finds inside millage transfer unjustified

January 2, 2015

The Ohio Supreme Court has invalidated a school district's reallocation of unvoted "inside" millage for permanent improvements because it found, under the circumstances, that the resulting increase in tax revenues for the school district was not "clearly required" by the district budget. The case involved the Indian Hill Exempted Village School District of Hamilton County, which had acted in 2009 to convert 1.25 inside mills levied for current expenses to 1.25 mills levied for permanent improvements. The ruling did not invalidate the inside millage shift procedure per se. Rather, the Court found that the county budget commission, in reviewing the requested change, should have considered the size of the district's current surplus and whether the additional tax revenues to be generated were in fact "clearly required" within the meaning of [Ohio Revised Code Section 5705.341](#) for both permanent improvements and operating revenues. [Sanborn v. Hamilton County Budget Commn.](#), 2014 Ohio 5218 (December 2, 2014).

The procedure for reallocating millage within the 10 unvoted "inside" mills allowed by law is well-established and has been utilized by many school districts whose levies have been reduced to the 20-mill "floor" by application of tax reduction factors first created under House Bill 920 in 1976. Such reallocations were made subject to a public hearing process under legislation enacted in 1998 (see [ORC 5705.314](#)). It was agreed by the parties and the Court that the Indian Hill Board of Education had fully complied with this process. The Court found, however, that the reallocation procedure was subject to the "clearly required" standard for approval of tax levies, and that the county budget commission had failed to give proper consideration to this standard given the size of the district's surplus.

In a closing comment, the Court attempted to limit the scope of its ruling, specifically stating that the case presented an "unusual circumstance" and that boards of education must be given the discretion to create budgets that include a surplus. However, the reasoning of the case would suggest that the Court will continue to require application of the "clearly required" budgeting standard not only to inside millage reallocations but to general "outside" millage requests as well.



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