

**AUDITOR OF STATE BULLETIN 96-021
SEPTEMBER 10, 1996**

TO: SCHOOL DISTRICT TREASURERS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PROHIBITION AGAINST PROMOTING SCHOOL LEVIES
WITH PUBLIC FUNDS

Every election cycle, the Auditor of State's Office receives numerous complaints alleging that public funds, school properties or other public resources are being used by school districts to promote the passage of levies or bond issues. The purpose of this Bulletin is to provide some guidance on what school districts and/or levy campaign committees may and may not do with publicly-owned resources. Any use of public funds, school properties or other public resources in a levy or bond issue campaign should conform to Ohio Rev. Code § 3315.07 and 1991 Att'y Gen. Op. No. 91-064, both of which are discussed below.

Ohio Rev. Code § 3315.07(C)(1) provides that no board of education shall use public funds to support or oppose the passage of a school levy. Ohio Rev. Code § 3315.07(C)(1) also states that no board of education shall use public funds to compensate any school district employee for time spent on any activity intended to influence the outcome of a school levy election. However, a board may allow employees to attend a public meeting during regular working hours for the purpose of presenting information on school finances or operations, even if the purpose of the meeting is to debate the passage of the levy or bond issue. Ohio Rev. Code § 3315.07(C)(2).

The statute does not prohibit school officials and employees from distributing materials supporting or opposing the passage of a school levy or bond issue if (1) the materials are privately financed, and (2) distributed on their own time. If school officials or employees choose to do this, they are not required to distribute materials which present the opposite position. Also, the statute does not prohibit the use of public funds to disseminate information about the financial condition of the school district. However, any document circulated which discusses the district's financial condition should be carefully written so as not to promote passing or defeating a school levy or bond issue.

In addition, in 1991 Op. Att'y Gen. No. 91-064 the Attorney General ruled that boards of education may adopt policies allowing political action committees (PACs) or school levy committees to use school district equipment, property or facilities during a levy campaign. For example, PACs or school levy committees may use the district's telephones or postage meter, meet on district property, or erect levy campaign signs on district property provided: (1) the district is paid for the use of such equipment and/or is fully reimbursed for any costs incurred; (2) there is no interference with educational instruction or district operations; and (3) the district's equipment, facilities and property are available to both pro- and anti-levy PACs or committees.

A copy of § 3315.07 and a copy of the Summary of Opinion No. 91-064 are attached. **All public officials should read the full text of the statute and opinion and consult with their legal counsel before taking any action on this issue.**

If you have any questions regarding this Bulletin, please contact the Auditor of State's Legal Division at 1-800-282-0370.