

OPINION NO. 79-072**Syllabus:**

Funds raised by a levy passed pursuant to R.C. 5705.19(I) may be used to purchase a rescue vehicle which provides ambulance or emergency medical services, whether or not such services are provided in connection with fire-related matters. (1978 Op. Att'y Gen. No. 78-014 overruled.)

To: John J. Plough, Portage County Pros. Atty., Ravenna, Ohio
By: William J. Brown, Attorney General, November 2, 1979

I have before me your request of September 17, 1979, for an opinion on the proper use of tax funds levied pursuant to R.C. 5705.19(I). Your request asks the following question:

May the joint fire district [serving Windham Township and Windham Village] replace its present fire rescue vehicle to be operated by the fire department only in connection with fires with the funds derived from the renewed tax levy under 5705.19 subsection (I)?

Your letter implies that by "fire rescue vehicle" you mean an ambulance/emergency medical vehicle which is used only in conjunction with fire emergencies, and is not used in other emergency situations.

The pertinent portions of the current version of R.C. 5705.19 state:

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of said body, may declare by resolution and certify such resolution to the board of elections not less than sixty days before the election upon which it will be voted, that the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the following purposes: . . .

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph or the payment of permanent, part-time, or volunteer firemen or fire fighting companies to operate the same or to purchase ambulance equipment or to provide ambulance or emergency medical services operated by a fire department or fire fighting company; (Emphasis added.)

The statute thus clearly authorizes the use of funds levied under R.C. 5705.19(I) "to purchase ambulance equipment or to provide ambulance or emergency medical services" Consequently, the joint fire district may purchase a fire rescue vehicle to be used for ambulance or emergency medical services with the funds from a tax levied under R.C. 5705.19(I). Furthermore, the statute places no restriction on the type of ambulance or emergency medical services which may be provided, other than that such services must be operated by a fire department or fire company. Therefore, such services may be provided under any circumstances and need not be restricted to fire-related matters.

The position taken in this opinion overrules 1978 Op. Att'y Gen. No. 78-014, and a brief discussion of the reason for this result is appropriate. The version of R.C. 5705.19 in effect on April 13, 1978, the date of issuance of 1978 Op. Att'y Gen. No. 78-014, did not possess any reference in subsection (I) to ambulance equipment or to ambulance or emergency medical services. That subsection stated:

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph or the payment of permanent, part-time, or volunteer firemen or fire fighting companies to operate the same;

. . . .

The opinion reasoned that, since R.C. 5705.19 prohibited the use of funds raised under a levy passed pursuant to one subsection of R.C. 5705.19 for a purpose set forth in a different subsection, and since the levy under consideration was passed pursuant to subsection (I) for the purpose of providing fire protection equipment and facilities, it was impermissible to use the funds from such a levy to provide ambulance and emergency medical services which were governed by R.C. 5705.19(U). However, the General Assembly, by adoption of S.B. 491 (effective July 13, 1978), amended subsection (I) to include ambulance equipment and ambulance or emergency medical services operated by a fire department or fire fighting company as equipment and services for which subsection (I) funds may be expended. Consequently, due to the amendment to the statute, the rationale of 1978 Op. Att'y Gen. No. 78-014 is no longer applicable, and it is permissible to use funds from a levy under subsection (I) to provide ambulance or emergency medical services operated by a fire department or fire fighting company.

In conclusion, it is my opinion that funds raised by a levy passed pursuant to R.C. 5705.19(I) may be used to purchase a rescue vehicle which provides ambulance or emergency medical services, whether or not such services are provided in connection with fire-related matters. (1978 Op. Att'y Gen. No. 78-014 overruled.)