

RESOLUTION NO. 1978- 336

A RESOLUTION REENACTING A REGIONAL TRANSIT AUTHORITY USE TAX OF ONE PER CENT PURSUANT TO CHAPTER 5741 AND PARTICULARLY SECTIONS 5741.022 AND 5741.04 OF THE OHIO REVISED CODE.

WHEREAS, this Board of Trustees on May 22, 1975 adopted Resolution No. 1975-5 submitting to the electors of this Regional Transit Authority the question of the levy of a sales and use tax for all transit purposes of the Greater Cleveland Regional Transit Authority, at the rate of one per cent, which tax levy was approved by the requisite majority vote at the special election held thereon on July 22, 1975, pursuant to Sections 5739.023 and 5741.022 of the Ohio Revised Code; and

WHEREAS, the Ohio Supreme Court in American Modulars Corp. v. Lindley, 54 Ohio St. 2d 273 (1978) has held unconstitutional the similar tax authorized to be levied by counties under Section 5741.021 of the Revised Code on the storage, use or consumption of certain tangible personal property and motor vehicles; and

WHEREAS, the tax on the storage, use or consumption of certain tangible personal property and motor vehicles authorized to be levied by regional transit authorities under Section 5741.022 of the Revised Code contains the same features relating to the imposition and collection of the tax which were at issue in the American Modulars case; and

WHEREAS, the Ohio General Assembly has enacted Am. H.B. No. 1360, which became effective December 11, 1978, amending Sections 5741.021, 5741.022 and 5741.04 of the Revised Code to correct the constitutional infirmity found by the Ohio Supreme Court to exist in the tax authorized to be levied under Section 5741.021 and making similar changes in the tax authorized to be levied by regional transit authorities under Section 5741.022; and

WHEREAS, Section 3 of Am. H.B. No. 1360 of the 112th General Assembly mandates that each board of trustees of a regional transit authority which has previously levied the tax authorized by Section 5741.02 of the Revised Code reenact such tax in accordance with Sections 5741.022 and 5741.04 as amended by Am. H.B. No. 1360;

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That for all transit purposes of the Greater Cleveland Regional Transit Authority, and pursuant to Sections 5741.022 and 5741.04 of the Ohio Revised Code, as amended by Am. H.B. No. 1360 of the 112th General Assembly, the tax levied by resolution adopted by this Board on May 22, 1975 and approved by the voters of this regional transit authority at the election thereon held on July 22, 1975, at the rate of one per cent on the storage, use or other consumption within the territorial jurisdiction of the Greater Cleveland Regional Transit Authority of motor vehicles and other tangible personal property, is hereby reenacted for a continuing period of time.

Section 2. That the Secretary-Treasurer is hereby directed to deliver a certified copy of this resolution by certified mail to the Tax Commissioner of Ohio within thirty (30) days after December 11, 1978, the effective date of Am. H.B. No. 1360 of the 112th General Assembly, but no later than December 26, 1978.

Section 3. It is found and determined that all formal actions of this Board concerning and relating to the adoption of this resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. That this resolution shall become effective and the tax reenacted hereby shall commence to be collected on the earliest date permitted by Section 3 of Am. H.B. No. 1360 of the 112th General Assembly, to-wit, the first day of the month following the expiration of five (5) days from the receipt by the Tax Commissioner of Ohio by certified mail of a certified copy of this resolution.

Adopted: December 19, 1978

Wm J. Bouffard
President

Attest:

William C. Lehman
Secretary-Treasurer