

OPINIONS
OF THE
ATTORNEY GENERAL
OF
OHIO
FOR THE
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TO DECEMBER 27, 1961

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PATROLMEN ACTING AS PEACE OFFICER—**

1. A State highway patrolman making an arrest for offenses noted in Chapter 5503 RC is acting as a peace officer—If he arrests a person found violating the laws of this state for which he is authorized to make an arrest; he must do so in accordance with the procedures prescribed by 2935.03, —.05, —.08, and —.13 RC.

- 2. If a highway patrolman arrests a person, and said person posts bond but does not appear on the specified date in court, and the judge issues a warrant for said person's arrest, the patrolman is bound by duty to serve the warrant—Chapter 5503 RC— Chapter 2935 RC—§§2935.03, 2935.05, 2935.08, 2935.13 2935.01 RC 261

AUTOMOBILES—SEE MOTOR VEHICLES—

AUTO SHOW—

- 1. "Auto Show" means any display of motor vehicles, primary purpose of which is exhibition of competitive makes and models, and said definition does not preclude display at an exhibition where other products are displayed in addition to motor vehicles.
- 2. Reference to "competitive makes and models" requires that makes of more than one manufacturer be displayed—§4517.01 RC (L) .. 618

BIDDERS

Board of township trustees can sell real estate belonging to township and can reject all bids if such information is made available to bidders—§505.10 RC 381

BILL—

Involving bill presented to Governor for approval when Governor does not return it to house of origin within ten days—Governor may disapprove of one item of a bill but allow the bill itself to become law without his signature—Opinion 496, OAG for 1945, p. 642— Approved and followed—Sec. 16, Art. II, OHIO CONSTITUTION Amended H. B. 1121 of 104th GA—Sec. 1C, Art. II, OHIO CONSTITUTION 640

BLUE CROSS AND BLUE SHIELD PREMIUM

PAYMENT BY COUNTY EMPLOYEES—

A county employee may authorize deductions from his salary for Blue Cross and Blue Shield premiums, a board of County Commissioners has no authority to enter into a contract for Blue Cross and/or Blue Shield coverage where coverage premiums will be paid from general county funds—§1739.15 RC 227

BOND—

Bonds issued by Tennessee Valley Authority not lawful investments for funds of municipalities, firemen's relief and pension funds or police relief and pension funds—§§731.56, 741.14, 741.45 Revised Code 469

BONDS (ISSUANCE OF)—

Board of Education may remit to electors of a subdivision the question of issuing bonds and levying taxes to improve its athletic field— §§3313.39, 3313.37, 135.37, 5705.19 RC 528

BONDS, INSURANCE OF—

Board of County Commissioners may appoint a building commission provided the question of issuing bonds of the County has been decided by an affirmative vote of the electors of such county— §153.21 RC 287

BOOK—	<i>Page</i>
Whether a book is a textbook, supplemental reading or reference book is a matter of fact to be decided by boards of education based on local need and intended use—§§3329.02, 3329.05 RC	429
 BUILDINGS (FOR SCHOOL ROOM USE)—	
Board of education can accept building for school room use for a limited period of time, and may spend money necessary to make buildings suitable for such use—§§3313.36, 3313.37 RC	679
 BUILDING COMMISSION—	
Board of County Commissioners may appoint a building commission provided the question of issuing bonds of the County has been decided by an affirmative vote of the electors of such county—§153.21 RC	287
 BUILDING & LOAN ASSOCIATION—	
A Clerk of Court may not deposit money held or controlled by him in his official capacity in a building and loan association—§§1101.01, 131.11 RC	175
Foreign Bldg. and Loan Association purchasing real estate mortgage loans, unsecured property improvement loans or making participating mortgage loans with a domestic association, is doing business in Ohio so as to require it to comply with the certificate of authority and annual filing fee requirements, provided that the transaction is not a single isolated act—§§1151.64, 1155.13 RC	449
 BUSES (SCHOOL)—	
School board not compelled to construct turnarounds for school buses, but has the power to do so if it deems such action necessary for welfare of its children—Opinion 1465, OAG for 1952, p. 382	604
 CANCEL—SPECIAL ASSESSMENT—	
Legislative authority of a municipal corporation has no power to waive or cancel any part of a special assessment made against the real property of a board of education when special assessment has been certified to the county auditor—§727.51 RC	192
 CAPITAL IMPROVEMENTS—	
When a hospital has been leased to a corporation not for profit, there is no authority for the cash on hand and accounts receivable to be turned over to the corporation, nor is there any authority for board of County Commissioners to issue bonds for capital improvements of such a hospital—§§749.16, 749.35 RC	180
 CEMETERIES (TOWNSHIP)—	
1. Township not liable for negligence arising from operation of township driveways, parking areas, garages and storing areas.	
2. Doctrine of proprietary functions does not apply to townships.	

- 3. Board of Park Commissioners not liable for negligence in maintenance of public park.
- 4. Directors of township cemeteries not liable for negligence arising from management of township cemeteries.
- 5. If liability of public agency for negligence is in doubt, the doubt must be resolved in favor of public and against expenditure of public money to purchase indemnity insurance protection—§§511.18, 517.20 RC—Opinion 179, OAG for 1957, p. 41 540

CEMETERY LOTS, SELLING OF—

A person licensed as a real estate broker or real estate salesman who is engaging in the sale of cemetery lots are subject to provisions of Chapter 4735 RC—Chapter 4735 RC 64

CEMETERY LOT—

A deed to a cemetery lot issued and executed by a board of township trustees does not require the acknowledgement of deeds, mortgages and leases—§§517.07, 5301.01 RC 283

“CERTIFICATE” EMPLOYEES—

- 1. All administrative or supervisory employees, including elementary or high school principals, are required to have issued a certificate pursuant to 3319.22 RC for the duties they are performing.
- 2. All above employees are “certificated” employees for purposes of calculation of salary allowances pursuant to 3317.052 RC, even though they may not possess the proper certificate—§§3319.01, 3319.02, 3301.07, 3319.22, 3317.061, 3317.052 RC 484

CHIROPODIST—

A chiropodist is not a physician so as to permit a board of education to expend school funds to employ him as a school physician—§§313.68 RC 148

CITIZENSHIP, PROOF—

Applicants for positions and places in the state service are required to furnish proof of citizenship and proof of past military service—§§143.16 & 143.18, §4112.02 RC 90

CITY COUNCIL—

Where city council prescribes salary of clerk of municipal court, mayor of city cannot veto ordinance regardless of his veto power—§§1901.31, 731.27 RC 376

CITY HEALTH DISTRICT—

Section 3709.07, Revised Code, does not authorize a union of a general health district and a city health district which is partly within and partly without said general health district—§3709.07 RC 195

CIVIL SERVICE—

Page

Salary to be paid secretary of state board of Cosmetology pertains to civil service and said board may not set the salary for such position—§§4713.02, 143 RC 520

- 1. Provisional appointment in classified civil service is valid only until a regular appointment can be made from a list prepared by dept. of state personnel.
- 2. In “laying off” employees, hiring authority should give preference to those regularly hired over provisional employees.
- 3. Person holding classified civil service position with dept. of Mental Hygiene and Correction is “laid off”, such person has preferential right to similar position held by provisional appointee at another institution within the department—§143.23 RC 666

CIVIL SERVICE ELGIBILITY—

Volunteer firemen receiving their appointments from a duly established civil service elgibility list are entitled to membership in firemen’s relief and pension fund according to 741.01 RC—§741.01 RC—Opinion 1092, OAG for 1960 436

CIVIL SERVICE COMMISSION (MUNICIPAL)—

When a municipal civil service commission is agent of director of state personnel, member of such commission not authorized to receive payment from public funds—§143.04 RC 500

CLERK, BOARD OF EDUCATION, DUTIES—

Duties of a clerk of a board of education are specifically provided in §§3313.22 to 3313.32—A board of education is without authority to assign additional non-statutory duties—§§3313.22 to 3313.32 RC .. 59

CLERK OF A BOARD OF EDUCATION, RE:—

- Holding simultaneously a position as a member of a board of health of a general health district.
- 1. The position of clerk of a board of education of a local school district is incompatible with the position of member of the board of health of a general health district.
 - 2. A person may not simultaneously serve as a member of a county board of education and an employee of the board of health of a general health district—§§3313.22, 3709.03, 3709.22, 3313.01 RC... 248

CLERK, CITY BOARD OF EDUCATION—

Position of clerk of a city board of education is incompatible with the positions of teacher, principal, asst. principal and director of curriculum in a city school district—§§3313.22, 3313.36 RC 289

CLERK, BOARD OF EDUCATION—

Clerk of a board of education cannot deduct from moneys due employees of the board any amounts representing taxes due to another state from said employees; and the board may not so invest the clerk with this power to deduct—§3313.20 RC 293

CLERK, OHIO HOUSE OF REPRESENTATIVES—	<i>Page</i>
Payment of salary of deceased member of General Assembly for remainder of his term may be made only to deceased member's dependent,-surviving spouse, children, mother, or father, in that order; and where a member dies with no dependents, no further payment of salary need be made—§101.27 RC	706
CLERK (OF SCHOOL DISTRICT)—ELECTION OF—	
First term of local clerk of school district as effective October 23, 1961, is a two year probationary term even though he may have held said office prior to that date, and elections for such checks should be held at meeting to be conducted on first Monday of January, 1962—§§3313.22, 3313.14 RC	662
COMMERCE, DIRECTOR OF—	
The fact that an application for registration; exemption or qualification of securities is made on behalf of common law or Massachusetts-type business trust does not as a matter of law prohibit the exemption, registration or qualification of its securities, certificates of beneficial interest, or shares in the trust—Chapter 1707 RC—§§1707.01 to 1707.45, 2733.01 (C), RC	155
COMMISSIONER, TAX—	
A judgment for state retail sales tax are authorized in §5739.13 RC is a judgment upon which a certificate of judgement may be filed—§§5739.13, 2329.02 RC	15
COMPATIBLE — INCOMPATIBLE—	
Office of member of a county soldiers' relief commission is not incompatible with the office of mayor or a municipal corporation—§5901.02 RC	18
A person may at the same time serve as mayor of a city and as teacher in the city school district providing it is physically possible for one person to discharge the duties of both positions—§733.02	26
There is no incompatibility between the positions of assistant prosecuting attorney of a county and clerk of council of a city in the county—§§309.06, 705.10 RC	98
Office of member of a county soldiers' relief commission is not incompatible with the office of prosecuting attorney of the county—§5901.02 RC	125
A person who is serving as sheriff or deputy sheriff of a County may not serve at the same time as clerk or deputy clerk of a county court—§1907.101 RC	132
Elective position of township trustee and janitor of highway patrol station, a civil service position, are not compatible—§143.41	334
One person may not simultaneously serve as a deputy sheriff and member of a board of township trustees in a county—§§505.441, 311.05 RC	335

- 1. Contracts between a milk company and board of education are invalid where said milk company employs two members of the board as milk truck drivers.
- 2. Contract for sale of school buses between board of education and auto sales agency are invalid when said agency employs a member of the board—§3313.33 RC 494
- Positions of executive head of local school district and superintendent of county school district in which local district is located are incompatible—§§3311.23, 3311.08, 3319.01, 3319.02, 3319.07 RC ... 504
- Positions of Chairman of child welfare board of a county and administrator of the retarded children's school of such county are incompatible— 598
- Position of clerk of a city board is incompatible with the positions of teacher, principal, asst. principal and director of curriculum in a city school district—§§3313.22, 3313.36 RC 289

COMPENSATION—

- Presiding Judge,—compensation of limited to \$500 in addition to base salary—§1901.09, .11 RC—OAG 1082-1952 P. 18 1

COMPENSATING THE DIRECTOR OF HEALTH FOR TEACHING AT A UNIVERSITY—

Section 121.12 RC, does not preclude the person serving as director of health from teaching part time in the Ohio State College of Medicine and in the Ohio State College of Nursing, and being compensated therefore from university funds—§121.12 RC 238

Compensation allowed by the board of county commissioners to municipal police court judges, clerk and prosecuting attorney.

- 1. The money collected by the clerk of a municipal court as compensation for the judges, clerk and prosecuting attorney should be paid to the county treasurer and not directly to such judges, clerk, or prosecuting attorney.
- 2. The sum paid to the board of trustees of the law library association may not in any month be less than 25% of all moneys accruing from fines and penalties by the municipal court for offenses and misdemeanors—§3375.50 RC 271

COMPETITIVE BIDDING—

- 1. The provisions of Section 14 of Amended Substitute House Bill 831 of the 103rd General Assembly authorizing the controlling board to allow expenditures of moneys appropriated by that act otherwise than in accordance with the items or classifications set forth, and the provisions of Sec. 18 of that act requiring competitive bidding on expenditures of more than \$1000 except where the controlling board allows otherwise, are not in conflict with the provisions of §125.13, RC, requiring that procurements and purchases

of supplies or equipment or contracts for or operation of data processing of supplies or equipment or contracts for or operation of data processing machine services, must be made through the department of finance.

- 2. Where a transfer of funds is made by the controlling board pursuant to Sec. 15 of Amended Substitute House Bill 831, the funds may be expended for any item properly within the classification to which the appropriation is allocated in addition to being expended for any classification allowed by the controlling board pursuant to Sec. 14 of that act—Sec. 14, Amended Sub. H. B. 831, 103rd GA—Sec. 15, Amended Sub. H. B. 831, 103rd GA—§125.13 RC 162

CONFLICT OF INTEREST, RE: BOARD OF HEALTH MEMBER AND CLERK OF A BOARD OF EDUCATION—

- 1. The position of clerk of a board of education of a local school district is incompatible with the position of member of the board of health of a general health district.
- 2. A person may not simultaneously serve as a member of a county board of education and an employee of the board of health of a general health district—§§3313.22, 3709.03, 3709.03, 3709.22, 3313.01 RC 248

CONSOLIDATED SCHOOL DISTRICTS — FUNDS—

- 1. A consolidated school district which is receiving school foundation funds to the total allocated to the separate districts for the year in which the consolidation took place is not receiving funds under a “similar minimum guarantee” and should not be excluded for that reason from receiving funds appropriations from emergency bill.
- 2. The three-year minimum guarantee extended to newly consolidated school districts under authority of §3317.02 RC, applies only to funds received pursuant to §§3317.02 and 3317.05 RC, and does not include emergency school bus moneys—§§3317.02, 3317.05, 3317.051 RC 229

CONSTITUTION, OHIO—

Amendments to Sec. 6 of Article IV and Sec. 6 of Article XVIII, Ohio Constitution, having received the favorable vote of its people of this state at the November election are now a valid part of the Ohio Constitution 50

CONTINUOUS BODY—

The Senate of this state, as it is presently constituted under the laws and constitution of the state, is not a continuous body—§109.13, 101.01 RC—Sec. 7, Article II, OHIO CONSTITUTION 70

CONTRACT—

Amount of money withheld at completion of contract should be 4% to be retained for 30 days; if contract has been performed, no amount should be retained—§735.071, 735.072 RC 518

CONTRACTS, LETTING—

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Letting of contracts—the authority may let a separate contract for each separate site involved in the project, or a single contract for the entire project—§3735.36 116

CONTRACT, PROFITS, TOWNSHIP TRUSTEE—

Delivery of gravel to a township does not constitute “work undertaken or prosecuted by the township” and a board of township trustees may enter into a contract to purchase gravel from a firm which has in its employ a former member of the board who resigned within the past month—§2919.10 RC 128

CONTRACTS, FOR OPERATION OF DATA PROCESSING MACHINE SERVICES—

1. The provisions of Sec. 14 of Amended Substitute House Bill 831 of the 103rd General Assembly authorizing the controlling board to allow expenditures of moneys appropriated by that act otherwise than in accordance with the items or classifications set forth, and the provisions of Sec. 18 of that act requiring competitive bidding on expenditures of more than \$1,000 except where the controlling board allows otherwise, are not in conflict with the provisions of §125.13 RC, requiring that procurements and purchases of supplies or equipment or contracts for or operation of data processing of supplies or equipment of contracts for or operation of data processing machine services, must be made through the department of finance.
2. Where a transfer of funds is made by the controlling board pursuant to Sec. 15 of amended substitute House Bill 831, the funds may be expended for any item properly within the classification to which the appropriation is allocated in addition to being expended for any classification allowed by the controlling board pursuant to Sec. 14 of that act—Sec. 14, Amended Sub. H. B. 831, 103rd GA—Sec. 15, Amended Sub. H. B. 831, 103rd GA—§125.13 RC 162

CONTRACTS—

1. Contracts between a milk company and board of education are invalid where said milk company employs two members of the board as milk truck drivers.
2. Contract for sale of school buses between board of education and auto sales agency are invalid when said agency employs a member of the board—§3313.33 RC 498

CONTRACT (EXECUTORY)—

1. In keeping records, county recorder required to enter the name of each operator in direct index under the appropriate letter, and the name of each grantee in the reverse index under the appropriate letter.
2. In indexing an executory contract for the sale of land which by the terms thereof is not required to be fully preformed by the parties within one year of the date of such contract the recorder should consider the grantor to be the party conveying the right to possession of the land, and the grantee to be the party obtaining the right to possession of the land—§§317.08, 317.18 RC 612

CONTRACT—

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- 1. Officer of public institution not connected with a county, municipal corporation, or board of education.
- 2. County hospital established under §309 RC, is public institution trustee of said hospital is not connected with county.
- 3. Such member can be interested in county contract if amount does not exceed fifty dollars; if amount exceeds fifty dollars, he may be interested if contract is let on bids advertised as provided by law —§§2919.08, 2919.09, 399 RC 694

CONTRACT, FOR BLUE CROSS AND BLUE SHIELD PREMIUM PAYMENTS FOR COUNTY EMPLOYEES—

A county employee may authorize deductions from his salary for Blue Cross and Blue Shield premiums, a board of county commissioners has no authority to enter into a contract for Blue Cross and/or Blue Shield coverage where coverage premiums will be paid from general county funds—§1739.15 RC 227

CONTRACTOR—

Opinion involving the transportation of materials used by a contractor performing public road work—§§4923.01, 4923.02, 4923.17 RC 628

CONTROLLING BOARD—

- 1. The provisions of Sec. 14 of Amended Substitute House Bill 831 of the 103rd General Assembly authorizing the controlling board to allow expenditures of moneys appropriated by that act otherwise than in accordance with the items or classifications set forth, and the provisions of Sec. 18 of that act requiring competitive bidding on expenditures of more than \$1000. except where the controlling board allows otherwise, are not in conflict with the provisions of §125.13 RC requiring that procurements and purchases of supplies or equipment or contracts for or operation of data processing of supplies or equipment or contracts for or operation of data processing machine services, must be made through the department of finance.
- 2. Where a transfer of funds is made by the controlling board pursuant to Sec. 15 of Amended Substitute House Bill 831, the funds may be expended for any item properly within the classification to which the appropriation is allocated in addition to being expended for any classification allowed by the controlling board pursuant to Sec. 14 of that act—Sec. 14, Amended Sub. H. B. 831, 103rd GA— Sec. 15, Amended Sub. H. B. 831, 103rd GA—§124.13 RC 162

CONTROLLING BOARD, PRESIDENT—

- 1. Department of Finance is authorized to purchase all necessary supplies and equipment for state departments if it so elects, but is without authority to determine whether any of same should be purchased.
- 2. Where controlling board has released appropriated funds of a state department for the purpose of purchasing certain equipment, the department of finance may not refuse to allow the purchase of such equipment—§§125.08, 125.11, 125.13, 125.02 RC— Sub. H. B. 831 of 103rd GA 169

CONTROLLING BOARD—	<i>Page</i>
Expenditures for membership in American Public Welfare Association not subject to provisions of Sec. 18 of Am. Sub. H. B. 390 of 104th G.A.—requiring that it expend in excess of \$1,000 in for labor and materials furnished, or commodities purchased, it must be pursuant to competitive bidding, or in the alternative, authorized by controlling board—Am. Sub. H. B. 390 of 104th GA—	391
 CORPORATION—	
When a hospital has been leased to a corporation not for profit, there is no authority for the cash on hand and accounts receivable to be turned over to the corporation, nor is there any authority for board of County Commissioners to issue bonds for capital improvements of such a hospital—§§749.16, 749.35 RC	180
 CORPORATION (FOREIGN)—	
Foreign Corporation not entitled to practice engineering in its own state and barred by statute to practice in Ohio cannot sublet to other parties the work which the law does not permit said corporation to perform—Opinion 114, OAG for 1945, p. 69—§§4733.16, 1704.04 RC	557
 COSMETOLOGY, CHAIRMAN, STATE BOARD OF—	
Salary to be paid secretary of state board of Cosmetology pertains to civil service and said board may not set the salary for such position—§§4713.02, 143 RC	520
 COST—	
Person committed to county jail for misdemeanor for failure to pay court costs and fine and pays said costs and fines to be released, — such payment made to appropriate clerk of court before release, County Sheriff without authority to release such person without authorization from clerk—§2947.20 RC	369
 COUNTY, ESTABLISHING A PARK DISTRICT—	
Section 301.26, RC, does not authorize a board of county commissioners to establish a park district for the county—§301.26	276
 COUNTY AUDITOR—	
Where a tax levy is approved by the voters of a taxing district in November and the taxing authority resolves to place the additional tax on the tax list for the current year, the county auditor is required to extend such tax on the tax list provided the board of county commissioners and the department of taxation may extend he time of payment of taxes beyond the December collection date—§323.17 RC—Opinion 1009 OAG 1949—§5705.191 RC	199
 COUNTY BOARD—	
Regional planning commission not a “county board” and not eligible to receive services of county prosecutor as its legal advisor—§§713.21, 309.09 RC	366
 COUNTY COMMISSIONER—	
Building located on county owned property and used for the purpose of storing road equipment, the county engineer has the authority to employ mechanics and night watchmen—§5543.19 RC	7

COMMISSIONERS, COUNTY—

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There is no authority for a board of county commissioners to create a waterworks board to operate the public water system of the county—§6103.02 RC 12

BOARD OF COUNTY COMMISSIONERS—

When a hospital has been leased to a corporation not for profit, there is no authority for the cash on hand and accounts receivable to be turned over to the corporation, nor is there any authority for board of County Commissioners to issue bonds for capital improvements of such a hospital—§§749.16, 749.35 RC 180

Where a tax levy is approved by the voters of a taxing district in November and the taxing authority resolves to place the additional tax on the tax list for the current year, the county auditor is required to extend such tax on the tax list provided the board of county commissioners and the department of taxation may extend the time of payment of taxes beyond the December collection date—§323.17 RC—Opinion 1009 OAG 1949—§5705.191 RC 199

COUNTY COMMISSIONERS—

Where a tax levy is approved by the voters of a taxing district in November and the taxing authority resolves to place the additional tax on the tax list for the current year, the county auditor is required to extend such tax on the tax list provided the board of county commissioners and the department of taxation may extend the time of payment of taxes beyond the December collection date—§323.17 RC—Opinion 1009 OAG 1949—§5705.191 RC 199

COUNTY COMMISSIONERS, APPOINTING DEPUTY CLERKS OF COUNTY COURTS—

Under the provisions of division (E) (1) of §1907.101 RC, in county court districts having appointed clerks, the board of county commissioners of a county may, without the concurrence of the county court judge or judges, appoint a deputy clerk or clerks of the county court; and a deputy clerk so appointed receives such compensation as the board may prescribe—§1907.101 RC 216

COMPENSATION FOR DEPUTY CLERKS OF COUNTY COURTS—

Under the provisions of division (E) (1) of §1907.101 RC—in county court districts having appointed clerks, the board of county commissioners of a county may, without the concurrence of the county court judge or judges, appoint, a deputy clerk or clerks of the county court; and a deputy clerk so appointed receives such compensation as the board may prescribe—§1907.101 RC 216

COUNTY COMMISSIONERS, BOARD OF, RE: PREMIUM PAYMENTS OF BLUE CROSS AND BLUE SHIELD—

A county employee may authorize deductions from his salary for Blue Cross and Blue Shield premiums, a board of county commissioners has no authority to enter into a contract for Blue Cross and/or Blue Shield coverage where coverage premiums will be paid from general county funds—§1739.15 RC 227

BOARD OF COUNTY COMMISSIONERS, RE: COMPENSATION PAID JUDGES, CLERK AND PROSECUTING ATTORNEY OF A MUNICIPAL POLICE COURT— *Page*

- 1. The money collected by the clerk of a municipal court as compensation for the judges, clerk and prosecuting attorney should be paid to the county treasurer and not directly to such judges, clerk, or prosecuting attorney.
- 2. The sum paid to the board of trustees of the law library association may not in any month be less than 25% of all moneys accruing from fines and penalties by the municipal court for offenses and misdemeanors—§3375.50 RC 271

Board of county commissioners, re: the sale of apartment buildings erected for veterans—

- 1. A board of county commissioners, may sell an apartment building erected for veterans to one of the actual tenants at the appraised value.
- 2. Several such tenants purchasing the building become tenants in common each with an undivided interest in such property—§3735.611 RC 267

Board of County Commissioners, re: establishment of a park district for the county Sec. 301.26 RC—does not authorize a board of county commissioners to establish a park district for the county—§301.26.. 276

County Commissioners, Board of, re: establishment of a park district for the county—
§301.26 RC—does not authorize a board of county commissioners to establish a park district for the county—§301.26 276

COUNTY COMMISSIONERS, BOARD OF—

Board of County Commissioners may appoint a building commission provided the question of issuing bonds of the County has been decided by an affirmative vote of the electors of such county—§153.21 RC 287

COUNTY COMMISSIONERS—

Whether to establish public road at direction of board of county commissioners after considering if said road would be for public convenience and welfare—§5553.04 RC 397

Board of County Commissioners cannot contract with private person to install storm sewer which benefits both parties and share costs of such installation unless said sewer is installed under provisions of §6131.62 RC—§§6131.62, 6131.22 RC 458

Surplus fund in dog and Kennel fund cannot be distributed to properly organized humane society if board of county commissioners fails to approve such a move—§§955.27, 305.07 RC 576

County Commissioners cannot expend public funds to pay hospital bills, except for those persons mentioned in §§311.20, 339.11, and 5106.01 RC 607

Board of County Commissioners maintaining a sewer district must collect rents and charges for the district or delegate said responsibility to the sanitary engineering department—§6117.01 RC 610

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County Commissioners cannot levy assessment against state owned armory property to pay for maintenance of sewer district without legislative permission—§6117.32 RC 703

COUNTY BOARD OF EDUCATION—

County auditor may refuse to issue a warrant for payment of school funds, if he deems such payment unauthorized—county board of education may not expend school funds to pay for photographs of staff members—§§319.16, 3317.13, 5705.01 RC 23

COUNTY EMPLOYEE—

County employee may accumulate vacation leave earned, but not used during his county service, and the payment of such earned but unused vacation leave to an employee upon separation should be at his current rate of pay—§325.19 RC 67

COUNTY HOME—

A county is not liable for injuries received by an inmate of a county home arising out of inmate's performance of labor—§5155.06 RC . 340

COUNTY HOSPITALS—

Board of Trusteee, County Hospitals, authority to contract with a professional hospital consulting firm.

A county board of trustees of a county hospital is without authority to contract with a professional hospital consulting firm to survey community-wide hospital facilities and needs projected over a specified period—§§339.01 to 339.14 inclusive RC 231

Board of Trustees, re: authority to contract with a professional hospital consulting firm.

A county board of trustees of a county hospital is without authority to contract with a professional hospital consulting firm to survey community-wide hospital facilities and needs projected over a specified period—§§339.01 to 339.14 inclusive RC 234

COUNTY RECORDER—

Where petition made to legislative authority of a municipal corporation for vacation of street or alley, said petitions must contain plat showing way to be vacated and said plat should be recorded by county recorder and fee for such recording to be paid by said legislative authority—§§723.04, 711.39, 317.32 RC 537

**COURTS, APPEALS, PROBATE, MUNICIPAL, COUNTY—
NUMBER OF JUDGES—**

Legislation proposing to increase the number of judges of courts of appeals, probate courts, municipal courts, or county courts requires only the concurrence of a majority of all the members elected in each house of the legislature as provided in Sec. 9 of Article II, OHIO CONSTITUTION, requiring a two-thirds vote in certain instances, do not apply to such legislation—Sec. 9 Art. II, OHIO CONSTITUTION 212

COURT, COMMON PLEAS—

Page

Person elected to serve an unexpired term in the court of common pleas must present a legal certificate of his election, receive governors commission, take required oath of office before he is entitled to serve in such capacity and receive salary—§§3.23, 107.05, 141.04, 141.05 RC—Sec. 7, Art. XV, OHIO CONSTITUTION 82

- 1. Where a court of common pleas assigns areas of jurisdiction to judges of a county court district, the court may divide the district into areas of equal population.
- 2. Where an additional judge is elected to a court district for a term commencing on Jan. 1, 1963, the court of common pleas of the district should designate the area of jurisdiction and location of court of each judge in the district by that date—§1907.071 RC—S. B. 462 of 104th GA 384

County Court—Vacancy occurring on a board of township trustees— if board does not fill the vacancy within thirty days the county court of the county must fill the vacancy—§§503.24, 1907.071 RC 122

**COURTS, CLERK OF—
CLERK, COUNTY COURT—**

A person who is serving as sheriff or deputy sheriff of a County may not serve at the same time as clerk or deputy clerk of any county court—§1907.101 RC..... 132

CLERK OF COURT—

A Clerk of Court may not deposit money held or controlled by him in his official capacity in a building and loan association—§§1101.01 RC 131.11 RC..... 175

Person committed to county jail for misdemeanor for failure to pay court costs and fine and pays said costs and fines to be released,— such payment made to appropriate clerk of court before release. County Sheriff without authority to release such person without authorization from clerk—§2947.20 RC..... 369

CLERK, COURT OF COMMON PLEAS—

Clerk of common pleas who holds money, such as fees and trust funds, may deposit such in a bank, and any interest earned on said deposit accrues to the fees or trust funds comprising the deposit. §§131.11 2919.02 RC 748

DAMAGES (from overloaded sewers)

Village allowing tap-ins to a sewer line, which overload said sewers and damage private property, is liable for damages to said private property 594

DEATH BENEFITS—

- 1. The words of Division (W) of §4123.68 RC should be construed to read “for periods amounting in all to at least three years, some portion of which has been after July 30, 1937.”
- 2. Where a decedent had three years exposure to harmful silica of §4128.68 RC do not preclude payment of death benefits to the decedent’s widow—§4123.68 RC 348

DECEDENT—

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- 1. The words of Division (W) of §4123.68 RC should be construed to read “for periods amounting in all to at least three years, some portion of which has been after **July 30, 1937.**
- 2. Where a decedent had three years exposure to harmful silica of §4123.68 RC—do not preclude payment of death benefits to the decedent’s widow—§4123.68 RC 348

DEEDS—

- A deed to a cemetery lot issued and executed by a board of township trustees does not require the acknowledgement of deeds, mortgages and leases—§§517.07, 5301.01 RC 283
- Where county auditor sells tracts of land from list of forfeited lands, he is required to issue a single certificate for each tract sold, the deed issued upon payment of the required fee—and auditor may not issue a deed covering more than one such tract—§§5723.04, 5723.12 RC 465

DENTAL SERVICES—

Dental student may render dental services in his home provided that such services are part of his college course and under supervision of a reputable dental college—§§4715.01, 4715.09, 4715.33 RC..... 654

DEPARTMENT OF COMMERCE, DIRECTOR—

A person licensed as a real estate broker or real estate salesman who is engaging in the sale of cemetery lots are subject to provisions of Chapter 4735 RC—Chapter 4735 RC 64

DEPENDENT—

Payment of salary of deceased member of General Assembly for remainder of his term may be made only to deceased member’s dependent, -surviving spouse, children, mother, or father, in that order; and where a member dies with no dependents, no further payment of salary need be made—§101.27 RC 706

DEPOSIT—

A Clerk of Court may not deposit money held or controlled by him in his official capacity in a building and loan association—§§1101.01, 131.11 RC 175

DEPUTY CLERKS OF COUNTY COURTS,

APPOINTMENTS BY—

Under the provisions of division (E) (1) of §1907.101 RC—in county court districts having appointed clerks, the board of county commissioners of a county may, without the concurrence of the county court judge or judges, appoint a deputy clerk or clerks of the county court; and a deputy clerk so appointed receives such compensation as the board may prescribe—§1907.101 RC 216

DEPUTY SHERIFF—

One person may not simultaneously serve as a deputy sheriff and member of a board of township trustees in a county—§§505.441, 311.05 RC 335

DETENTION HOME—

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A juvenile judge of a county advises and recommends establishment of a juvenile detention home to the board of county commissioners, the board has a mandatory duty to provide such home but is not required to follow specific recommendations of the judge as to location—§2151.34 RC 75

DIRECTOR OF CURRICULUM—

Position of clerk of a city board is incompatible with the positions of teacher, principal, asst. principal and director of curriculum in a city school district—§§3313.22, 3313.36 RC 289

DIRECTOR, DEPT. OF HEALTH—

It is duty of Attorney General to see that a proper affidavit is filed in a court of competent jurisdiction in all cases where evidence is received by him indicating a violation of §§371.02, 3721.05 or 3721.06 RC—§§3721.09, 3721.02, 3721.05, 3721.06 RC 304

DIRECTOR OF HEALTH AT A COLLEGE BEING COMPENSATED FOR TEACHING—

Sec. 121.12 RC—does not preclude the person serving as director of health from teaching part time in the Ohio State College of Medicine and in the Ohio State College of Nursing, and being compensated therefor from university funds—§121.12 RC 238

DIRECTOR OF HIGHWAYS—

Director of highways may use highway funds to finance the relocation and reconstruction of a grade separation structure provided he deems it necessary to relocate and reconstruct the same outside the right-of-way of such road—§5523.19 RC 279

DIRECTOR, DEPT. MENTAL HYGIENE & CORRECTION—

1. Provisional appointment in classified civil service is valid only until a regular appointment can be made from a list prepared by dept. of state personnel.
2. In "layong off" employees, hiring authority should give preference to those regularly hired over provisional employees.
3. Person holding classified civil service position with dept. of mental hygiene and correction is "laid off", such person has preferential right to similar position held by provisional appointee at another institution within the department—§143.23 RC 666

DISABILITY BENEFITS—

1. Board of trustees of a firemen's relief and disability pension fund in acting upon an application for benefits is not bound to act in accordance with opinion of three physicians appointed relative to §741.18 RC—but should consider all evidence in determining eligibility.
2. Members of above board are not liable for acts pursuant to §741.18 (C), judged to be erroneous unless bad faith or corrupt motives be present—§741.18 RC 360

DOCTORS—

Professional men such as doctors may associate as a partnership—
§§1775.05, 1783.01, 4731.22 (E) RC 110

DOG KENNEL LICENSE—

An applicant for a dog kennel license is not required to obtain a
vendor's license before such kennel license will be issued; and where
a proper application for a kennel license is made, the auditor should
issue said license—§§955.04, 5539.17 RC 150

DOMESTIC FOWLS—

Pheasants held in pens, with the sole intent of releasing them for
hunting during the hunting season, are not domestic fowls or
poultry—§955.29 RC 144

EASEMENT—

1. Where state acquires a perpetual easement over lands on which
real estate taxes are owing, for purposes of a highway, no liability
attaches to the state.
2. In a condemnation action in which the state seeks to acquire such
an easement, and real estate taxes are owed on the property, county
treasurer may apply to be made party to accrued taxes.
3. Procedure for attaching a lien for taxes constitutes sole method of
collection of delinquent real estate taxes; and there is no statutory
authority for removal of delinquent taxes from tax duplicate even
though foreclosure of the lien would be of no avail—Opinion 2975,
OAG 1953, page 365—§§5519, 5519.01 RC 399

EDUCATION, BOARD OF—

BOARD OF EDUCATION—

Duties of a clerk of a board of education are specifically provided in
§§3313.22 to 3313.32—A board of education is without authority
to assign additional non-statutory duties—§§3313.22 to 3313.32 RC 59

A chiropodist is not a physician so as to permit a board of education
to expend school funds to employ him as a school physician—
§3313.68 RC 148

A County Board of Education has adopted a resolution proposing,
the creation of a new local school district, the creation of the district
is effective at the expiration of the thirtieth day after the adoption
of the resolution, unless a petition of referendum has been filed
within that period—§3311.26 RC—OAG 6354, 1956 178

A board of education may not adopt a regulation prohibiting the at-
tendance of married, or pregnant when married, students.

A board of education may adopt a rule which would require students
in advanced pregnancy not to attend school—In cases in which there
would be a danger to the student's physical health.

A board of education may assign a teacher to home instruct pregnant
students who are not allowed to attend class 205

County board of education re: a member serving as an employee of the
board of health of the general health district—

- 1. The position of clerk of a board of education of a local school district is incompatible with the position of member of the board of health of a general health district.
- 2. A person may not simultaneously serve as a member of a county board of education and an employee of the board of health of a general health district—§§3313.22, 3709.03, 3709.22, 3313.01 RC.... 248
- Clerk of a board of education cannot deduct from moneys due employees of the board any amounts representing taxes due to another state from said employees; and the board may not so invest the clerk with this power to deduct—§3313.20 RC 293
- Whether a book is a textbook supplemental reading or reference book is a matter of fact to be decided by boards of education based on local need and intended use—§§3329.02, 3329.05 RC 429
- Vacancies occurring in Board of Education to be filled pursuant to §3313.11 RC—which is exception to §3.02 RC—§§3313.11, 3.02, RC 444
- 1. Board of Education of city, exempted village or local school district not authorized to contract for comprehensive school surveys and studies, including building-related studies.
- 2. County board of education may contract with a private or public agency for survey or study relating to needs that may be rendered by the board—§§3313.37, 3315.061 RC 471
- Board of Education may employ as study hall monitors non-teaching employees which need not be certificated—§§3319.081, 3319.22 RC 482

EDUCATION, STATE BOARD OF—

- 1. All administrative or supervisory employees, including elementary or high school principals, are required to have issued a certificate pursuant to §3319.22 RC, for the duties they are performing.
- 2. All above employees are “certificated” employees for purposes of calculation of salary allowances pursuant to §3317.052 RC, even though they may not possess the proper certificate—§§3319.01, 3319.02 3301.07, 3319.22, 3317.061, 3317.052 RC 484

EDUCATION, BOARD OF—

- 1. Contracts between a milk company and board of education are invalid where said milk company employs two members of the board as milk truck drivers.
- 2. Contract for sale of school buses between board of education and auto sales agency are invalid when said agency employs a member of the board—§3313.33 RC 494
- Board of Education may remit to electors of a subdivision the question of issuing bonds and levying taxes to improve its athletic field—§§3313.39, 3313.37, 135.37, 5705.19 RC 528
- Office of township clerk not incompatible with office of member of board of education for school district in which township is located—§507.01 RC 532
- Where Board of Education decides not to reemploy high school supervisor and elementary school supervisor, notice must be given

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then on or before first day of June §3319.11 RC does not apply—
 §§3319.083, 3319.11 RC 536

1. Only one statement for each person under twenty-one years of age should be sent to the clerk of Board of Education of the school district in which the person is a school resident and such statement should be sent no later than June 30th for training received during the preceding school year.
2. No authority permitting state aid to a teacher who conducts classes for mentally retarded persons through a private organization—
 §5717.04 RC 651

If Board of Education submits question of additional tax levy to electors of school district and resolution states that such levy is to be placed on tax duplicate for current year, then if a favorable vote is received, it must be extended on current tax duplicate for collection, and after first of year, tax levy shall be included in annual tax budget certified to county budget commission—§§5705.19, 5705.21, 5705.25 RC 676

Board of Education can accept building for school room use for a limited period of time, and may spend money necessary to make buildings suitable for such use—§§3313.36, 3313.37 RC 679

Local Board of Education may employ legal counsel other than prosecuting attorney and such employment may be on a contingent fee basis—§309.10 RC 690

Board of Education may require prospective employees to be fingerprinted and city may provide the service at expense of the board—
 §3313.20 RC 724

Education, County Childrens Home—Payment of school expense of children who are inmates of County Children's Home or are residing with foster parents—§§3313.64, 3313.65 RC 100

ELECTIONS—

1. Whereas provision (D) of 4301.22 bans sale of intoxicating liquor on day of general election it does not prohibit sale of same on day of special elections. §4301.22, RC does not apply to sales of liquor on election day under all classes of permits and from state liquor stores.
2. Elections in municipalities during August, September and October for nominating candidates for municipal offices are special elections and said division (D) does not apply—§§4301.22, 4301.65, 3501.01 RC 461
1. Redistricting of city wards under 731.06, RC does not become effective until next ensuing election of municipal officers.
2. When primary election is required to be held for nomination of candidates for municipal officers, the election process begins with such primary election.
3. Redistricting of wards after a primary election has no affect on general election following and does not become effective until the next ensuing election—§731.06 RC 501

- 1. Where population of municipal corporation, formerly classified as village, is five thousand or more, said municipal corporation is part of general health district of county until officers of municipal corporation have been elected and qualified as city officers.
- 2. Where no election of city officers is held, electors of municipal corporation should vote at general election on question of a levy for health purposes—§§703.06, 3709.01 RC—Opinion 3354, OAG for 1941, page 9 599

Election (of clerk of school district)—First term of local clerk of school district as effective October 23, 1961, is a two year probationary term even though he may have held said officer prior to that date, and elections for such checks should be held at meeting to be conducted on first Monday of January, 1962—§§3313.22, 3313.14 RC. 662

Election, Primary—The holding of a primary election—issued to be voted on—§§3501.01(E), 519.25 RC 20

ELECTORS—

Board of township trustees may not improve township hall at cost in excess of \$2,000.00 without submitting question to township electors—§511.01 RC 393

ELECTORS, COUNTY—

Board of County Commissioners may appoint a building commission provided the question of issuing bonds of the County has been decided by an affirmative vote of the electors of such county—§153.21 RC 287

EMERGENCY SCHOOL BUS FUNDS, AS RELATED TO CONSOLIDATED SCHOOL DISTRICTS—

- 1. A consolidated school district which is receiving school foundation funds to the total allocated to the separate districts for the year in which the consolidation took place is not receiving funds under a similar minimum guarantee” and should not be excluded for that reason from receiving funds appropriations from emergency bill.
- 2. The three-year minimum guarantee extended to newly consolidated school districts under authority of §3317.02 RC applies only to funds received pursuant to Sec. 3317.02 and 3317.05 RC, and does not include emergency school bus moneys—§§3317.02, 3317.05, 3317.051 RC 229

EMPLOYEE—

Employ, authority to—Building located on county owner property and use for the purpose of storing road equipment, the county engineer has the authority to employ mechanics and night watchmen—§5543.19 RC 7

Board of education may employ as study hall monitors non-teaching employees which need not be certificated—§§3319.081, 3319.22 RC.. 482

Employees (administrative and supervisory)—

- 1. All administrative or supervisory employees, including elementary or high school principals, are required to have issued a certificate pursuant to 3319.22 RC for the duties they are performing.

2. All above employees are "certificated" employees for purposes of calculation of salary allowances pursuant to 3317.052 RC, even though they may not possess the proper certificate—§§3319.01, 3319.02, 3301.07, 3319.22, 3317.061, 3317.052 RC 484

EMPLOYMENT—

Where in 1948 a person was hired by a board of township trustees and required to join the Public Employees Retirement System, but said person worked until 1957 before becoming a member of the system and terminated his employment in 1958, the board of township trustees is required to make employer contributions for the period when his employment began in 1948 to the time he joined the System in 1957, and if the board fails to make such payment, the Public Employee Retirement System may proceed under 145.51 RC, to effectuate payment of the delinquent amount—§486-33 G.C., §145.51 RC 353

ENCUMBRANCES—

Unexpended balances of appropriations and reappropriations made by H. B. 1124 of 103rd G.A. against which encumbrances were incurred on or before June 30, 1961, are now available and reappropriated from funds for which they were originally appropriated—H. B. 1124 of 103rd G.A., Am. H. B. 390 of 104th G.A. §9..... 447

ENGINEER—

Engineer, County—Building located on county owned property and use for the purpose of storing road equipment, the county engineer has the authority to employ mechanics and night watchmen—§5543.19 RC 7

ENGINEERS, PROFESSIONAL ASSOCIATION OF—

Professional Association of Engineers is authorized to incorporate. Such an association is precluded from assuming a name involving the word "engineer" or "engineering" or any modification or derivative of such term—Chapter 1785, §§1701.03, 4733.16 RC—Am. S. B. 550 of 104th G.A. 583

EQUIPMENT—

1. Department of Finance is authorized to purchase all necessary supplies and equipment for state departments if it so elects, but is without authority to determine whether any of same should be purchased.

2. Where controlling board has released appropriated funds of a state department for the purpose of purchasing certain equipment, the department of finance may not refuse to allow the purchase of such equipment—§§125.08, 125.11, 125.13, 125.02 RC—Sub. H. B. 831 of 103rd G.A. 169

EQUIPMENT, KITCHEN—

Library trustees may purchase kitchen equipment for serving of meals to employees where there are no other eating facilities available to such employees—§3375.40(B) RC 731

EXECUTIVE—*Page*

Executive—head certificate, re: serving as an elementary school principal—A person holding an executive head certification may serve as a principal of an elementary school—§3319.22(L) RC 245

EXPENDITURES—

Expenditure for membership in American Public Welfare Association not subject to provisions of Section 18 of Am. Sub. H. B. 390 of 104th G.A. requiring that it expend in excess of \$1,000 in for labor and materials furnished, or commodities purchased, it must be pursuant to competitive bidding, or in the alternative, authorized by controlling board—Am. Sub. H. B. 390 of 104th G.A..... 391

EXPENSES—

Regarding reimbursement to state officials of expenses incurred while performing official duties “outside the State of Ohio”—§§127.05, 141.15, 4901.09 RC 588

1. Boards of trustees of, Ohio State University, Bowling Green University, Ohio University and Central State College are authorized to travel outside state on official business at state expense without approval of emergency board. All other officers and employees, including trustees of Miami University must have emergency board approval.
2. Words “at state expense” refer to expenses paid from monies appropriated by the legislature. Expenses paid from other sources, such as from an athletic fund, need not have emergency board approval—§§3335.02, 337.01, 3341.02, 3343.04, and 127.05 RC 682

Expense, education, County children’s home—Payment of school expense of children who are inmates of County children’s home or are residing with foster parents—§§3313.64, 3313.65 RC 100

FAMILY—

1. A “householder” is a person who, as head of the family, keeps or occupies a house with his family.
2. Where a new township is designated from the territory of two townships, the zoning regulations of the two townships cease to apply—§503.02 RC 311

FEES—

§§3903.36 and 3905.26 RC are in *pari materia*; and fee imposed by latter section should be calculated according to dollar value of all contracts relating to life insurance for which reserve values are calculated pursuant to 3903.36 RC—§3905.25 RC..... 548

Taxation of House Trailers and collection and use of penalty fees for failure to register house trailers—§§4501.01, 4503.06 (F) (2), (H), (F) (I), 5709.01, (F) (I) and 4503.061 RC..... 708

DEPARTMENT OF FINANCE, DIRECTOR OF—

1. The provisions of Sec. 14 of Amended Sub. H. B. 831 of the 103rd G.A. authorizing the controlling board to allow expenditures of moneys appropriated by that act otherwise than in accordance with the items or classifications set forth, and the provisions of §18 of

that act requiring competitive bidding on expenditures of more than \$1,000 except where the controlling board allows otherwise, are not in conflict with the provisions of §125.13 RC, requiring that procurements and purchases of supplies or equipment or contracts for or operation of data processing of supplies or equipment or contracts for or operation of data processing machine services, must be made through the department of finance.

2. Where a transfer of funds is made by the controlling board pursuant to §15 of Am. Sub. H. B. 831, the funds may be expended for any item properly within the classification to which the appropriation is allocated in addition to being expended for any classification allowed by the controlling board pursuant to §14 of that act—§14, Am. Sub. H. B. 831, 103rd G.A.—§15, Am. Sub. H. B. 831, 103rd G.A.—§125.13 RC 162

DEPARTMENT OF FINANCE—

1. Department of Finance is authorized to purchase all necessary supplies and equipment for state departments if it so elects, but it is without authority to determine whether any of same should be purchased.
2. Where controlling board has released appropriated funds of a state department for the purpose of purchasing certain equipment, the department of finance may not refuse to allow the purchase of such equipment—§§125.08, 125.11, 125.13, 125.02 RC—Sub. H. B. 831 of 103rd G.A. 169

FIRE-FIGHTING EQUIPMENT—

Board of township trustees authorized to purchase and maintain necessary fire-fighting equipment and finance such purchase over period of four years by issuance of notes—§505.37 RC—Opinion 1415, OAG for 1952, overruled 621

FIRE PROTECTION—

A board of township trustees has no authority, either express or implied, to enter into a contract with a village in an adjoining state for the furnishing of fire protection to the township—OAG 292 for 1957 approved and followed—§505.44 RC 87

FIREMEN (DISABILITY BENEFITS)—

1. Board of trustees of a firemen's relief and disability pension fund in acting upon an application for benefits is not bound to act in accordance with opinions of three physicians appointed relative to 741.18 RC, but should consider all evidence in determining eligibility.
2. Members of above board are not liable for acts pursuant to 741.18 (C), judged to be erroneous unless bad faith or corrupt motives be present—§741.18 RC 366

FIREMEN'S RELIEF, BOARD OF TRUSTEES—

1. Board of trustees of a firemen's relief and disability pension fund in acting upon an application for benefits is not bound to act in accordance with opinion of three physicians appointed relative to §741.18 RC, but should consider all evidence in determining eligibility.

- 2. Members of above board are not liable for acts pursuant to §741.18, (C), judged to be erroneous unless bad faith or corrupt motives be present—§741.18 RC 360

FINGERPRINTING—

Board of education may require prospective employees to be fingerprinted and city may provide the service at expense of the board—§3313.20 RC 724

FINES—

- 1. Fines assessed by the court of common pleas in jury trial cases involving violations of a municipal ordinance, should be paid into the county treasury.
- 2. Treasurer of a municipal corporation not authorized to demand and receive such fine—§§2937.03, 733.44, 733.46 RC 329

FINE—

Person committed to county jail for misdemeanor for failure to pay court costs and fines and pays said costs and fines to be released—such payment made to appropriate clerk of court before release. County Sheriff without authority to release such person without authorization from clerk—§2947.20 RC 369

FISHING—

Person paying consideration to fish in a private pond and receives a cash prize for catching a certain fish—the same constitutes a lottery. Such person is in violation of §2915.06 RC—Sec. 6, Art. XV, OHIO CONSTITUTION—§§2915.10, 2915.12, 2915.06 RC..... 357

FOOD SERVICE OPERATION—

- 1. Gift of weiner sandwiches at a place of business not a restaurant, etc., for a period of three consecutive days for business inducement is sufficient “consideration” to constitute practice of “food service operation”.
- 2. Proprietor of above establishment has “kept or maintained” a place for purpose of serving lunches, etc.
- 3. Private home which serves a guest a meal for the purpose of promotional scheme is not a place that is “kept or maintained” for serving meals—§3732.01, RC 657

FORFEITED LANDS—

Where county auditor sells tracts of land from list of forfeited lands, he is required to issue a single certificate for each tract sold, the deed issued upon payment of the required fee; and auditor may not issue a deed covering more than one such tract—§§5723.04, 5723.12 RC 465

FORECLOSURE—

Real estate sold by Sheriff resulting from foreclosure because of delinquent taxes and deed is prepared by an employee whose salary is paid by the county, costs for making said deed should be taxed as costs in said foreclosure proceedings. Said costs not to be paid from proceeds of sale, but by purchaser over and above the purchase price —§311.17 RC 479

FUNDS—

Page

When a municipal civil service commission is agent of director of state personnel, member of such commission not authorized to receive payment from public funds—§143.04 RC 500

Fund (dog and kennel)—Surplus fund in dog and kennel fund cannot be distributed to properly organized humane society if board of county commissioners fails to approve such a move—§§955.27, 305.07 RC 576

1. §3735.31 RC, authorizing a metropolitan housing authority to invest, must be construed with the Uniform Depository Act, Chapter 135 RC, under which investment of such funds is limited to obligations of the United States and State of Ohio.

2. §3735.31 RC, does not authorize loan of funds to a municipal corporation, and such a loan is unlawful—§§3735.31, 135. RC 671

Highway—Director of highways may use highway funds to finance the relocation and reconstruction of a grade separation structure provided he deems it necessary to relocate and reconstruct the same outside the right-of-way of such road—§5523.19 RC 279

Taxation of House Trailers and collection and use of penalty fees for failure to register house trailers—§§4501.01, 4503.06 (F) (2), (H), (F) (I), 5709.01 (F) (I), 4503.061 RC 708

For consolidated school districts:

1. A consolidated school district which is receiving school foundation funds to the total allocated to the separate districts for the year in which the consolidation took place is not receiving funds under a “similar minimum guarantee” and should not be excluded for that reason from receiving funds appropriation from emergency bill.

2. The three-year minimum guarantee extended to newly consolidated school districts under authority of § 3317.02 RC applies only to funds received pursuant to §§3317.02 and 3317.05 RC and does not include emergency school bus moneys—§§3317.02, 3317.05, 3317.051 RC 229

Funds raised for soldiers’ relief may not be transferred to a county department of public welfare for administration and distribution—§5901.11 RC 326

General fund of the county, re: payment of employees insurance funds. A county employee may authorize deductions from his salary for Blue Cross and Blue Shield premiums, a board of county commissioners has no authority to enter into a contract for Blue Cross and/or Blue Shield coverage where coverage premiums will be paid from general county funds—§1739.15 RC 227

GENERAL HEALTH DISTRICT—

§3709.07 RC, does not authorize a union of a general health district and a city health district which is partly within and partly without said general health district—§3709.07 RC 195

GENERAL STATUTES—RE: THE STATE AND ITS AGENTS—

The State is not bound by the terms of a general statute unless such is expressly provided, and there is no such provision in Chapter 3767. RC, which would permit the prosecution of an action under §3767.13 RC, against the State and its Agents—§3767.13 RC 188

GOVERNOR—*Page*

- Am. Sub. H. B. 330 of 104th G.A., is not a law providing for a tax levy and said law goes into effect 90 days after date on which it was filed by governor in office of Secretary of State—§5739 RC—Sec. 1 D, Art. II, OHIO CONSTITUTION 373
- Involving bill presented to Governor for approval when Governor does not return it to house of origin within ten days. Governor may disapprove of one item of a bill but allow the bill itself to become law without his signature—Opinion 496, OAG for 1945, p. 642, Approved and followed—Sec. 16, Art. II and Sec. 1C, Art. II, OHIO CONSTITUTION—Am. H. B. 1121 of 104th G.A. 651
- Governor, State of Ohio—Opinion relating to “ITEM” disapprovals by Governor Michael V. DiSalle on bills submitted by the legislature—Opinion 1467, OAG for 1927, page 2667, Sec. 16, Art. II, OHIO CONSTITUTION—Am. Sub. H. B. 390 of 104th G.A. H. B. 831.... 404
- Governor of State of Ohio—Opinion relating to Senate Confirmation of appointments by the governor—Art. III, OHIO CONSTITUTION—Sec. 21, Art. III, OHIO CONSTITUTION—§3505.35 RC 738

GRAVES—

- A board of township trustees may adopt rules and regulations pertaining to the digging of graves in the township cemetery and may provide (1) for opening of graves by employees of the board after the charge for service is paid, or (2) for the opening of graves by a non-employee (undertaker), but if said trustee performs the digging himself, he cannot accept remuneration for such services from outside sources 301

HEALTH DISTRICT—

- §3709.07 RC, does not authorize a union of a general health district and a city health district which is partly within and partly without said general health district—§3709.07 RC 195
- Health district advisory council—Township trustee attending health district advisory council meeting not entitled compensation under §505.24 RC as he is not performing duties relating “to partition fences” or “business of the township”—§§3709.03 and 505.24 RC—Opinion 747, OAG for 1949, page 414 509
- Health District (general):
1. Where population of municipal corporation, formerly classified as village, is five thousand or more, said municipal corporation is part of general health district of county until officers of municipal corporation have been elected and qualified as city officers.
 2. Where no election of city officers is held, electors of municipal corporation should vote at general election on question of a levy for health purposes—§§703.06, 3709.01 RC—Opinion 3354, OAG for 1941, page 9 599
- Health District, Board of Health of a, re: a member holding a job simultaneously as clerk of a board of education.

- 1. The position of clerk of a board of education of a local school district is incompatible with the position of member of the board of health of a general health district.
- 2. A person may not simultaneously serve as a member of a county board of education and an employee of the board of health of a general health district—§§3313.22, 3709.03, 3709.22, 3313.01 RC 248

HIGHWAYS, DEPARTMENT OF—

Highways, Director of—Director of highways may use highway funds to finance the relocation and reconstruction of a grade separation structure provided he deems it necessary to relocate and reconstruct the same outside the right-of-way of such road—§5523.19 RC 279

Director, Department of Highway Safety:

- 1. A State highway patrolman making an arrest for offenses noted in Chapter 5503. RC is acting as a peace officer. If he arrests a person found violating the laws of this state for which he is authorized to make an arrest; he must do so in accordance with the procedures prescribed by 2935.03, —.05, —.08, and —.13 RC.
- 2. If a highway patrolman arrests a person, and said person posts bond but does not appear on the specified date in court, and the judge issues a warrant for said person's arrest, the patrolman is bound by duty to serve the warrant—Chapters 5503. 2935. RC—§§2935.03, 2945.05, 2935.08, 2935.13, and 2935.01 RC 261

HIGHWAY PATROLMEN—

Fines collected in county courts from persons arrested by state highway patrolmen should be distributed as provided in §§5503.04, 1907.101, 2931.08, 2949.11, 5503.04 and 4513.35 RC 343

Highway Patrolman, re: Acting as a peace officer—procedure for arrest

- 1. A State highway patrolman making an arrest for offenses noted in Chapter 5503. RC is acting as a peace officer. If he arrests a person found violating the laws of this state for which he is authorized to make an arrest; he must do so in accordance with the procedures prescribed by 2935.03, —.05, —.08, and —.13 RC.
- 2. If a highway patrolman arrests a person, and said person posts bond but does not appear on the specified date in court, and the judge issues a warrant for said person's arrest, the patrolman is bound by duty to serve the warrant—Chapters 5503. 2935. RC—§§2935.03, 2935.05, 2935.08, 2935.13, 2935.01 RC 261

Highway Patrolman, re: Duty to serve warrants:

- 1. A State highway patrolman making an arrest for offenses noted in Chapter 5503. RC is acting as a peace officer. If he arrests a person found violating the laws of this state for which he is authorized to make an arrest; he must do so in accordance with the procedures prescribed by 2935.03, —.05, —.08, and —.13 RC.
- 2. If a highway patrolman arrests a person, and said person posts bond but does not appear on the specified date in court, and the judge issues a warrant for said person's arrest, the patrolman is bound by duty to serve the warrant—Chapters 5503., 2935. RC—§§2935.03, 2935.05, 2935.08, 2935.13, 2935.01 RC 261

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When a hospital has been leased to a corporation not for profit, there is no authority for the cash on hand and accounts receivable to be turned over to the corporation, nor is there any authority for board of County Commissioners to issue bonds for capital improvements of such a hospital—§§749.16 and 749.35 RC	180
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HOSPITAL (COUNTY)—	
1. Officer of public institution not connected with a county, municipal corporation, or board of education.	
2. County hospital established under 399. RC, is public institution trustee of said hospital is not connected with county.	
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Payment of salary of deceased member of General Assembly for remainder of his term may be made only to deceased member's dependent, -surviving spouse, children, mother, or father, in that order; and where a member dies with no dependents, no further payment of salary need be made—§101.27 RC	706
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1. A "householder" is a person who, as head of the family, keeps or occupies a house with his family.	
2. Where a new township is designated from the territory of two townships, the zoning regulations of the two townships cease to apply—§503.02 RC	311
HOUSING AUTHORITY—	
1. §3735.31 RC, authorizing a metropolitan housing authority to invest, must be construed with the Uniform Depository Act, Chapter 135 RC, under which investment of such funds is limited to obligations of the United States and State of Ohio.	
2. §3735.31 RC, does not authorize loans of funds to a municipal corporation, and such a loan is unlawful—§§3735.31, 135. RC	671

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Surplus fund in dog and kennel fund cannot be distributed to properly organized humane society if board of county commissioners fails to approve such a move—§§955.27, 305.07 RC 576

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Revenues for use on state highways may be used by a municipal corporation to pay cost of removal of snow, etc. and leaves from such highways—§5735.28 RC 316

INCOME TAX—

Boards of township trustees are without authority to levy an income or payroll tax—Sec. 2, Art. X, OHIO CONSTITUTION..... 295

INCREASING NUMBER OF JUDGES—

Legislature proposing to increase the number of judges of courts of appeals, probate courts, municipal courts, or county courts requires only the concurrence of a majority of all the members elected in each house of the legislature as provided in Sec. 9, Art. II, OHIO CONSTITUTION, requiring a two-thirds vote in certain instances, do not apply to such legislation—Sec. 9, Art. II, OHIO CONSTITUTION 212

INDEX (“NOTICE INDEX”)—

The “Notice Index” not applicable to 5309, RC pertaining to registration of land titles; and all county recorders are required to maintain such an index regardless of fact that notices are indexed under sectional indexes as provided in §§317.20, 317.201, 5309, 5301.51, 5301.52, 317.20 RC 579

INDEXING (COUNTY AUDITOR)—

1. In keeping records, county recorder required to enter the name of each operator in direct index under the appropriate letter, and the name of each grantee in the reverse index under the appropriate letter.
2. In indexing an executory contract for the sale of land which by the terms thereof is not required to be fully performed by the parties within one year of the date of such contract, the recorder should consider the grantor to be the party conveying the right to possession of the land, and the grantee to be the party obtaining the right to possession of the land—§§317.08, 317.18 RC 612

INDUSTRIAL COMMISSION OF OHIO—

1. The words of Division (W) of §4123.68 RC should be construed to read “for periods amounting in all to at least three years, some portion of which has been after July 30, 1937”.
2. Where a decedent had three years exposure to harmful silica of §4123.68 RC do not preclude payment of death benefits to the decedent’s widow—§4123.68 RC 348

INJURIES—

A county is not liable for injuries received by an inmate of a county home arising out of inmate’s performance of labor—§5155.05 RC... 340

ILLEGALLY LEVIED TAXES—

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- 1. Taxes illegally levied and collected which are unexpended and in the possession of the officer collecting the same cannot be refunded under the provisions of §2723.05 RC, unless the payment of such taxes was involuntary, and it is a question of fact to be determined in each case whether a proper protest was made.
- 2. Taxes which are voluntarily paid should be applied to the purpose for which the levy was made, even though illegally made—
§2723.05 RC 222

INMATE—

A county is not liable for injuries received by an inmate of a county home arising out of inmate's performance of labor—§5155.06 RC... 340

INSURANCE COVERAGE, PAYMENT OF PREMIUMS FOR COUNTY EMPLOYEES—

A county employee may authorize deductions from his salary for Blue Cross and Blue Shield premiums, a board of county commissioners has no authority to enter into a contract for Blue Cross and/or Blue Shield coverage where coverage premiums will be paid from general county funds—§1739.15 RC..... 227

INSTRUCTION—MARRIED AND MARRIED PREGNANT STUDENTS—

- A board of education may not adopt a regulation prohibiting the attendance of married, or pregnant when married, students.
- A board of education may adopt a rule which would require students in advanced pregnancy not to attend school. In cases in which there would be a danger to the student's physical health.
- A board of education may assign a teacher to home instruct pregnant students who are not allowed to attend class 205

INSURANCE, SUPERINTENDENT OF—

§§3903.36 and 3905.26 RC, are in *pari materia*; and fee improved by latter section should be calculated according to dollar value of all contracts relating to life insurance for which reserve values are calculated pursuant to §§3903.36, 3905.26 RC 548

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Opinion relating to "ITEM" disapprovals by Governor Michael V. DiSalle on bills submitted by the legislature—Opinion 1467, OAG for 1927, page 2667, Sec. 17, Art. II, OHIO CONSTITUTION—Am. Sub. H. B. 390 of 104th G.A. H. B. 831 404

INTEREST—

Clerk of common pleas who holds money, such as fees and trust funds, may deposit such in a bank, and any interest earned on said deposit accrues to the fees or trust funds comprising the deposit—§§131.11, 2919.02 RC 748

JANITOR—

Election position of township trustee and janitor of highway patrol station, a civil service position, are not compatible—§143.41 334

JUDGE—

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1. Where a court of common pleas assigns areas of jurisdiction to judges of a county court district, the court may divide the district into areas of equal population.
2. Where an additional judge is elected to a court district for a term commencing on January 1, 1963, the court of common pleas of the district should designate the area of jurisdiction and location of court of each judge in the district by that date—§1907.071 RC—S. B. 462 of 104th G.A. 384

JUDGE, JUVENILE—

A juvenile judge of a county advises and recommends establishment of a juvenile detention home to the board of county commissioners, the board has a mandatory duty to provide such home but is not required to follow specific recommendations of the judge as to location—§2151.34 RC 75

JUDGE (PRESIDING)—

Presiding Judge—compensation of limited to \$500 in addition to base salary—§1901.09, .11 RC—OAG 1082, 1952, page 18 1

JUDGMENT—

When judgment filed with Bureau of Motor Vehicles, the Registrar should suspend license of person against whom the judgment was rendered—§§4509.02, 4509.37 RC 635

JUDGMENT—RETAIL SALES TAX—

A judgment for state retail sales tax are authorized in §5739.13 RC, is a judgment upon which a certificate of judgment may be filed—§§5739.13, 2329.02 RC 15

JURY TRIAL—

1. Fines assessed by the court of common pleas in jury trial cases involving violations of a municipal ordinance, should be paid into the county treasury.
2. Treasurer of a municipal corporation not authorized to demand and receive such fine—§§2937.08, 733.44, 733.46 RC 329

JUVENILE DELINQUENT—

1. Male juvenile delinquent over 16 years of age committed to Ohio State Reformatory, may be released by superintendent of the institution upon granting of parole by pardon and parole commission providing the juvenile is under 21 years of age.
2. Commission may grant final release if parolee has performed obligation of parole, but such final release may not be given until one year after release from reformatory, unless said prisoner is 21 years of age—§§2151.35, 5143.04 RC 727

LANDS, FORFEITED—

When advertising for sale of forfeited lands, such advertising must include names of all persons on auditor's general tax list and duplicate as being owners of said lands—§§5723.01, 5723.19 RC 512

LAW—

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Involving bill presented to Governor for approval when Governor does not return it to house of origin within ten days. Governor may disapprove of one item of a bill but allow the bill itself to become law without his signature—Opinion 496, OAG for 1945, page 642, Approved and followed—Sec. 16, Art. II OHIO CONSTITUTION, Sec. 1C, Art. II, OHIO CONSTITUTION 640

**LAW LIBRARY ASSOCIATION, BOARD OF TRUSTEES, RE:
PAYMENT FROM FINES AND PENALTIES—**

1. The money collected by the clerk of a municipal court as compensation for the judges, clerk and prosecuting attorney should be paid to the county treasurer and not directly to such judges, clerk, or prosecuting attorney.
2. The sum paid to the board of trustees of the law library association may not in any month be less than 25% of all moneys accruing from fines and penalties by the municipal court for offenses and misdemeanors—§3375.50 RC 271

Board of trustees of law library association, re: percentage of monies accruing from fines and penalties.

1. The money collected by the clerk of a municipal court as compensation for the judges, clerk and prosecuting attorney should be paid to the county treasurer and not directly to such judges, clerk, or prosecuting attorney.
2. The sum paid to the board of trustees of the law library association may not in any month be less than 25% of all moneys accruing from fines and penalties by the municipal court for offenses—§3375.50 RC 271

“LAYING-OFF” EMPLOYEES—

1. Provisional appointment in classified civil service is valid only until a regular appointment can be made from a list prepared by department of state personnel.
2. In “laying off” employees, hiring authority should give preference to those regularly hired over provisional employees.
3. Person holding classified civil service position with department of Mental Hygiene and Correction is “laid off”, such person has preferential right to similar position held by provisional appointee at another institution—§143.23 RC 666

LEASE—

When a hospital has been leased to a corporation not for profit, there is no authority for the cash on hand and accounts receivable to be turned over to the corporation, nor is there any authority for board of County Commissioners to issue bonds for capital improvements of such a hospital—§§749.16, 749.35 RC 180

A deed to a cemetery lot issued and executed by a board of township trustees does not require the acknowledgement of deeds, mortgages and leases—§§517.07, 5301.01, RC 283

LEAVES—

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Revenues for use on state highways may be used by a municipal corporation to pay cost of removal of snow, etc. and leaves from such highways—§5735.28 316

LEGAL COUNSEL—

Local board of education may employ legal counsel other than prosecuting attorney and such employment may be on a contingent fee basis—§309.10 RC 690

LEGISLATIVE AUTHORITY—MUNICIPAL CORPORATION—

Legislative authority of a municipal corporation has no power to waive or cancel any part of a special assessment made against the real property of a board of education when special assessment has been certified to the county auditor—§727.51 RC 192

LEGISLATION INCREASING NUMBER OF JUDGES—

Legislation proposing to increase the number of judges of courts of appeals, probate courts, municipal courts, or county courts requires only the concurrence of a majority of all the members elected in each house of the legislature as provided in Sec. 9 of Art. II, OHIO CONSTITUTION, requiring a two-thirds vote in certain instances, do not apply to such legislation—Sec. 9, Art. II, OHIO CONSTITUTION 212

LEVY—

A levy for maintenance and operation of schools, training centers or workshops for mentally retarded persons does not come within limitation of sixty-five one hundredths of a mill for support of child welfare services provided for in §§5705.24, 5705.19 (Division L) 5705.24 RC 573

LEVY—TAX—

Where a tax levy is approved by the voters of a taxing district in November and the taxing authority resolves to place the additional tax on the tax list for the current year, the county auditor is required to extend such tax on the tax list provided the board of county commissioners and the department of taxation may extend the time of payment of taxes beyond the December collection date §323.17 RC—Opinion 1009, OAG 1949—§5705.191 RC 199

LIABILITY—

1. Township not liable for negligence arising from operation of township driveways, parking areas, garages and storing areas.
2. Doctrine of proprietary functions does not apply to townships.
3. Board of Park Commissioners not liable for negligence in maintenance of public park.
4. Directors of township cemeteries not liable for negligence arising from management of township cemeteries.

- 5. If liability of public agency for negligence is in doubt, the doubt must be resolved in favor of public and against expenditure of public money to purchase indemnity insurance protection—§§511.18, 517.20 RC—Opinion 179, OAG for 1957, page 41 540

LIBRARY TRUSTEES—

- Library trustees may purchase kitchen equipment for serving of meals to employees where there are no other eating facilities available to such employees—§3375.40 RC (B) 731

LICENSE—

- When judgment filed with Bureau of Motor Vehicles, the Registrar should suspend license of person against whom the judgment was rendered—§§4509.02, 4509.37 RC 635

LICENSE—

- 1. All persons licensed with State Veterinary Board must register with board by January 31, 1962, or January 31, 1963, and pay fee of ten dollars. Said requirement applies to non-resident as well as resident licensees.
- 2. All licenses issued prior to January 1, 1958 are valid if holders thereof comply with above requirements—§§4741.171, 4741.16 RC .. 720

LIEN—

- 1. Where state acquires a perpetual easement over lands on which real estate taxes are owing, for purposes of a highway, no liability attaches to the state.
- 2. In a condemnation action in which the state seeks to acquire such an easement, and real estate taxes are owed on the property, county treasurer may apply to be made party to accrued taxes.
- 3. Procedure for attaching a lien for taxes constitutes sole method of collection of delinquent real estate taxes; and there is no statutory authority for removal of delinquent taxes from tax duplicate even though foreclosure of the lien would be of no avail—Opinion 2975, OAG 1953, page 365—§§5519., 5519.01 RC..... 399

LIQUOR CONTROL, DIRECTOR OF DEPARTMENT—

- 1. Whereas provision (D) of §4301.22 bans sale of intoxicating liquor on day of general election it does not prohibit sale of same on day of special elections—§4301.22 RC, does not apply to sales of liquor on election day under all classes of permits and from state liquor stores.
- 2. Elections in municipalities during August, Sept. and October for nominating candidates for municipal offices are special elections and said division (D) does not apply—§§4301.22, 4301.65, 3501.01 RC .. 461

LIQUOR—

- 1. Whereas provision (D) of §4301.22 bans sale of intoxicating liquor on day of general election it does not prohibit sale of same on day

of special elections—§4301.22 RC, does not apply to sales of liquor on election day under all classes of permits and from state liquor stores.

- 2. Elections in municipalities during August, September and October for nominating candidates for municipal offices are special elections and said division (D) does not apply—§§4301.22, 4301.65, 3501.01 RC 461

LOCAL SCHOOL DISTRICT, RE: A PERSON HOLDING AN EXECUTIVE-HEAD CERTIFICATE SERVING AS PRINCIPAL—

A person holding an executive head certification may serve as a principal of an elementary school—§3319.22, (L), RC 245

LOTTERY—

Person paying consideration to fish in a private pond and receives a cash prize for catching a certain fish—the same constitutes a lottery. Such person is in violation of §2915.06 RC—Sec. 6, Art. XV, OHIO CONSTITUTION—§§2915.10, 2915.12, 2915.06 RC 357

MACHINE GUN—

Person possessing a sub-machine gun not required to renew permit (which allows them to have custody of the weapon) annually, and such permit is valid so long as a valid bond for \$5,000 is kept with Adjutant General—§2923.04 RC 554

MARRIED STUDENT—HIGH SCHOOL ATTENDANCE—

- A Board of Education may not adopt a regulation prohibiting the attendance of married, or pregnant when married, students.
- A Board of Education may adopt a rule which would require students in advanced pregnancy not to attend school. In cases in which there would be a danger to the student's physical health.
- A Board of Education may assign a teacher to home instruct pregnant students who are not allowed to attend class— 205

MATERIALS—

Opinion involving the transportation of materials used by a contractor performing public road work—§§4923.01, 4923.02, 4923.17 RC 628

MAYOR—

Where city council prescribes salary of clerk of municipal court, mayor of city cannot veto ordinance regardless of his veto power—§§1901.31, 731.27 RC 376

MENTALLY RETARDED PERSONS—

A levy for maintenance and operation of schools, training centers or workshops for mentally retarded persons does not come within limitation of sixty-five one hundredths of a mill for support of child welfare services provided for in §5705.24 RC—§§5705.19 RC (Division L) 5705.24 RC 573

MENTALLY RETARDED PERSONS, CLASSES FOR—

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- 1. Only one statement for each person under twenty-one years of age should be sent to the clerk of Board of Education of the school district in which the person is a school resident and such statement should be sent no later than June 30, for training received during the preceding school year.
- 2. No authority permitting state aid to a teacher who conducts classes for mentally retarded persons through a private organization—
§5717.04 RC 651

MIAMI UNIVERSITY—

- 1. Boards of Trustees of Ohio State University, Bowling Green University, Ohio University and Central State College are authorized to travel outside state on official business at state expense without approval of emergency board. All other officers and employees, including trustees of Miami University must have emergency board approval.
- 2. Words “at state expense” refer to expenses paid from monies appropriated by the legislature. Expenses paid from other sources, such as from an athletic fund, need not have emergency board approval—§§3335.02, 3337.01, 3341.02, 3343.04, and 127.05 RC 682

MICROFILM—

Public officials enumerated in §9.01 RC are authorized to use the microfilm process of reproduction for recording, filing, maintaining and preserving of records and are authorized to dispose of the original records in accordance with provisions of §§149.31, 149.32, 149.37, 149.38, 149.39, 149.41 and 149.42 RC 184

MILK TRUCK DRIVERS—

- 1. Contracts between a milk company and board of education are invalid where said milk company employs two members of the board as milk truck drivers.
- 2. Contract for sale of school buses between board of education and auto sales agency are invalid when said agency employs a member of the board—§3313.33 RC 494

MONITORS (OF STUDY-HALL)—

Board of Education may employ as study hall monitors non-teaching employees which need not be certificated—§§3319.081, 3319.22 RC .. 482

MORTGAGES—

A deed to a cemetery lot issued and executed by a board of township trustees does not require the acknowledgement of deeds, mortgages and leases—§§517.07, 5301.01 RC 283

MOTOR CARRIERS (“PRIVATE” OR “CONTRACT”)—

Opinion involving the transportation of materials used by a contractor performing public road work—§§4923.01, 4923.02, 4923.17 RC 628

MOTOR VEHICLES—

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1. "Auto Show" means any display of motor vehicles, primary purpose of which is exhibition of competitive makes and models, and said definition does not preclude display at an exhibition where other products are displayed in addition to motor vehicles.
2. Reference to "competitive makes and models" requires that makes of more than one manufacturer be displayed—§4517.01 RC (L) .. 618

MOTOR VEHICLE LICENSE—

1. "Nonresidents" refers to persons not residents of Ohio. Such term includes persons from another state who reside here temporarily and intend to return to their home state.
2. A married student attending a university in Ohio who intends to return to his home state is a "non-resident". Such person may operate a motor vehicle in Ohio if he has a permit—§4507.04 RC .. 296

MOTOR VEHICLE, SUNDAY SELLING—

Revoking motor vehicle dealer's and salesmen's licenses for Sunday selling, taxing, licensing, or regulation of the sales of motor vehicles—§§4517.12, 3773.24 RC 32

MUNICIPAL CORPORATION—

Municipal corporation, re: nuisance abatement proceedings to compel a private property owner to remove a dangerous tree overhang on a public street:

1. It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to the center of the road.
2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said trees by such proceedings as nuisance abatement.
3. It is the duty of the municipal corporation to remove a dead tree located in a street right-of-way in said corporation. Costs may be assessed against the owner of the abutting property.
4. It is the duty of the owners of a piece of private property in a municipal corporation to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the street and may institute abatement proceedings—§§5571.02, 3767.03, 927.02, 727.01, 3767.03, 927.22 RC.. 253

Municipal Corporation, re: duty of a municipal corporation to remove a tree in a condition causing danger to users of a street:

1. It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to the center of the road.
2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said trees by such proceedings as nuisance abatement.

3. It is the duty of the municipal corporation to remove a dead tree located in a street right-of-way in said corporation. Costs may be assessed against the owner of the abutting property.

4. It is the duty of the owners of a piece of private property in a municipal corporation to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the street and may institute abatement proceedings—§§5571.02, 3767.03, 927.02, 727.01, 927.22 RC 253

Revenues for use on State Highways may be used by a municipal corporation to pay cost of removal of snow, etc. and leaves from such highways—§5735.28 RC 316

Where petition made to legislative authority of a municipal corporation for vacation of street or alley, said petitions must contain plat showing way to be vacated and said plat should be recorded by county recorder and fee for such recording to be paid by said legislative authority—§§723.04, 711.39, 317.32 RC 567

1. Where population of municipal corporation, formerly classified as village, is five thousand or more, said municipal corporation is part of general health district of county until officers of municipal corporation have been elected and qualified as city officers.

2. Where no election of city officers is held, electors of municipal corporation should vote at general election on question of a levy for health purposes—§§704.06, 3709.01 RC—Opinion 3354, OAG for 1941, page 9 599

Municipal Police Court, re: compensation for judges, clerk and prosecuting attorney:

1. The money collected by the clerk of a municipal court as compensation for the judges, clerk and prosecuting attorney should be paid to the county treasurer and not directly to such judges, clerk, or prosecuting attorney.

2. The sum paid to the board of trustees of the law library association may not in any month be less than 25% of all moneys accruing from fines and penalties by the municipal court for offenses and misdemeanors—§3375.50 RC 271

NEGLIGENCE—

1. Township not liable for negligence arising from operation of township driveways, parking areas, garages and storing areas.

2. Doctrine of proprietary functions does not apply to townships.

3. Board of Park Commissioners not liable for negligence in maintenance of public park.

4. Directors of township cemeteries not liable for negligence arising from management of township cemeteries.

5. If liability of public agency for negligence is in doubt, the doubt must be resolved in favor of public and against expenditure of public money to purchase indemnity insurance protection—§§511.18, 517.20 RC—Opinion 179, OAG for 1957, page 41 540

NONRESIDENT—

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- 1. "Nonresidents" refers to persons not residents of Ohio. Such term includes persons from another state who reside here temporarily and intend to return to their home state.
- 2. A married student attending a university in Ohio who intends to return to his home state is a "non-resident". Such person may operate a motor vehicle in Ohio if he has a permit—§4507.04 RC .. 296

NOTES—

Board of Township Trustees authorized to purchase and maintain necessary fire-fighting equipment and finance such purchase over period of four years by issuance of notes—§505.37 RC—Opinion 1415, OAG for 1952, Overruled 621

"NOTICE INDEX"—

The "Notice Index" not applicable to §5309 RC pertaining to registration of land titles; and all county recorders are required to maintain such an index regardless of fact that notices are indexed under sectional indexes as provided in §317.20 RC—§§317.201, 5309, 5301.51, 5301.52, 317.20 RC 579

NUISANCE ABATEMENT PROCEEDINGS—

By a municipal corporation to compel a private property owner to remove a dangerous tree overhang.

- 1. It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to center of the road.
- 2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said trees by such proceedings as nuisance abatement.
- 3. It is the duty of the municipal Corp. to remove a dead tree located in a street right of way in said Corp. Costs may be assessed against the owner of the abutting property.
- 4. It is the duty of the owners of a piece of private property in a municipal Corp. to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the street and may institute abatement proceedings—§§5571.02, 3767.03, 927.02, 727.01, 3767.03, 927.22 RC.... 253

OHIO CIVIL RIGHTS COMMISSION, DIRECTOR—

Amendments made by Am. H. B. 918 of 104th G. A. (administrative procedure act) make Chapter 119 RC applicable to procedures of Ohio Civil Rights Commission only as they relate to manner in which final order of the commission are issued and served on respondents and to modification of such final orders—Am. H. B. 918 of 104 GA—§§4112.05 (G) and (I), 119 RC 490

OHIO CONSTITUTION—NUMBER OF JUDGES—

Legislation proposing to increase the number of judges of courts of appeals, probate courts, municipal courts, or county courts requires only the concurrence of a majority of all the members elected in each house of the legislature as provided in Sec. 9 of Art. II, OHIO CONSTITUTION, requiring a two-thirds vote in certain instances, do not apply to such legislation—Sec. 9 Art. II, OHIO CONSTITUTION 212

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Public officials enumerated in §9.01 RC are authorized to use the microfilm process of reproduction for recording, filing, maintaining and preserving of records and are authorized to dispose of the original records in accordance with provisions of §§149.31, 149.32, 149.37, 149.38, 149.39, 149.41 and 149.42 RC	184
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1. Male juvenile delinquent over 16 years of age committed to Ohio State Reformatory, may be released by superintendent of the institution upon granting of parole by pardon and parole commission providing the juvenile is under 21 years of age.	
2. Commission may grant final release if parolee has performed obligation of parole, but such final release may not be given until one year after release from reformatory, unless said prisoner is 21 years of age—§§2151.35, 5143.04 RC	727
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- 2. Doctrine of proprietary functions does not apply to townships.
- 3. Board of Park Commissioners not liable for negligence in maintenance of public park.
- 4. Directors of township cemeteries not liable for negligence arising from management of township cemeteries.
- 5. If liability of public agency for negligence is in doubt, the doubt must be resolved in favor of public and against expenditure of public money to purchase indemnity insurance protection—§§511.18, 517.20 RC—Opinion 179, OAG for 1957, page 41 540

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- 1. Male juvenile delinquent over 16 years of age committed to Ohio State Reformatory, may be released by superintendent of the institution upon granting of parole by pardon and parole commission, providing the juvenile is under 21 years of age.
- 2. Commission may grant final release if parolee has performed obligation of parole, but such final release may not be given until one year after release from reformatory, unless said prisoner is 21 years of age—§§2151.35, 5143.04 RC 727

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- 1. "Reinstatement" according to §741.49 RC, means reinstatement, re-employment or renewal of membership by lawful means and not limited to meaning of §143.35 RC.

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2. Patrolmen who resigned as of March 31, 1955, withdrawing money from police relief and pension fund, but re-employed in police department after taking civil service exams—such re-employment amounts to “reinstatement in active service in police department” according to §741.49 RC—§§741.49, 143.35 RC	432
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- 1. "Reinstatement" according to §741.49 RC means reinstatement, re-instatement or renewal of membership by lawful means and not limited to meaning of §143.35 RC.
- 2. Patrolman who resigned as of March 31, 1955, withdrawing money from police relief and pension fund, but re-employed in police department after taking civili service exams—such re-employment amounts to "reinstatement in active service in police dept. "according to §741.49 RC—§§741.49, 143.35 RC 432

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- 1. All administrative or supervisory employees, including elementary or high school principals, are required to have issued a certificate pursuant to §3319.22 RC, for the duties they are performing.
- 2. All above employees are "certificated" employees for purposes of calculation of salary allowances pursuant to §3317.052 RC even though they may not possess the proper certificate—§§3319.01, 3319.02, 3301.07, 3319.22, 3317.061, 3317.052 RC 484

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2. Doctrine of proprietary functions does not apply to townships.
3. Board of Park Commissioners not liable for negligence in maintenance of public park .
4. Directors of township cemeteries not liable for negligence arising from management of township cemeteries.
5. If liability of public agency for negligence is in doubt, the doubt must be resolved in favor of public and against expenditure of public money to purchase indemnity insurance protection—§§511.18, 517.20 RC—Opinion 179, OAG for 1957, page 41 540

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Scioto County—Regional planning commission not a “county board” and not eligible to receive service of county prosecutor as its legal advisor—§§713.21, 309.09 RC	366
Scioto County—1. Where state acquires a perpetual easement over lands on which real estate taxes are owing, for purposes of a highway, no liability attaches to the state.	

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2. In a condemnation action in which the state seeks to acquire such an easement, and real estate taxes are owed on the property, county treasurer may apply to be made party to accrued taxes.	
3. Procedure for attaching a lien for taxes constitutes sole method of collection of delinquent real estate taxes; and there is no statutory authority for removal of delinquent taxes from tax duplicate even though foreclosure of the lien would be of no avail—Opinion 2975, OAG 1953, page 365—§§5519., 5519.01 RC	399
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fee for said service; however, court not authorized to so appoint in proceedings where Ohio is responding state —§13115, 3115.05 RC.. 570

Union County—1. A consolidated school district which is receiving school foundation funds to the total allocated to the separate districts for the year in which the consolidation took place is not receiving funds under a “similar minimum guarantee” and should not be excluded for that reason from receiving fund appropriations from an emergency bill.
2. The three-year minimum guarantee extended to newly consolidated school districts under authority of §3317.02 RC, applies only to funds received pursuant to §§3317.02 and 3317.05 RC, and does not include emergency school bus moneys—§§3317.02, 3317.05, 3317.051 RC 229

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Van Wert County—Board of township trustees can sell real estate belonging to township and can reject all bids if such information is made available to bidders—§505.10 RC 381

Van Wert County—School board not compelled to construct turn-arounds for school buses, but has the power to do so if it deems such action necessary for welfare of its children—Opinion 1465, OAG for 1952, page 382 604

Warren County—County employee may accumulate vacation leave earned, but not used during his county service, and the payment of such earned but unused vacation leave to an employee upon separation should be at his current rate of pay—§325.19 RC..... 67

Warren County—1. Taxes illegally levied and collected which are unexpended and in the possession of the officer collecting the same cannot be refunded under the provisions of Sec. 2723.05 RC, unless the payment of such taxes was involuntary, and it is a question of fact to be determined in each case whether a proper protest was made.
2. Taxes which are voluntarily paid should be applied to the purpose for which the levy was made, even though illegally made—§2723.05 RC 222

Warren County—Positions of Chairman of child welfare board of a county and administrator of the retarded children’s school of such county are incompatible 598

PROSECUTION—OF THE STATE OR ITS AGENTS—

The State is not bound by the terms of a general statute unless such is expressly provided, and there is no such provision in Chapter 3767. RC which would permit the prosecution of an action under §3767.13 RC, against the State or its agents—§3767.13 RC 188

PUBLIC EMPLOYEES RETIREMENT SYSTEM—

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Where in 1948 a person was hired by a board of township trustees and required to join the Public Employees Retirement System, but said person worked until 1957 before becoming a member of the system and terminated his employment in 1958, the board of township trustees is required to make employer contributions for the period when his employment began in 1948 to the time he joined the System in 1957, and if the board fails to make such payment, the Public Employees Retirement System may proceed under 145.51 RC, to effectuate payment of the delinquent amount—§486-33 GC §145.51 RC.. 353

PUBLIC INSTITUTION—

1. Officer of public institution not connected with a county, municipal corporation, or board of education.
2. County hospital established under §399. RC, is public institution trustee of said hospital is not connected with county.
3. Such member can be interested in county contract if amount does not exceed fifty dollars; if amount exceeds fifty dollars, he may be interested if contract is let on bids advised as provided by law—§§2919.08, 2919.09, 399. RC 150

PUBLIC OFFICIALS—

Public officials enumerated in §9.01 RC, are authorized to use the microfilm process of reproduction for recording, filing, maintaining and preserving of records and are authorized to dispose of the original records in accordance with provisions of §§149.31, 149.32, 149.37, 149.38, 149.39, 149.41 and 149.42 RC 184

PUBLIC WATER SYSTEM—

There is no authority for a board of county commissioners to create a waterworks board to operate the public water system of the county—§6103.02 RC 12

PUBLIC UTILITY—

Pipe line company is a public utility and should be taxed as such, even if a subsidiary of another company—§§5727.01, 5727.02 RC 524

PUBLIC UTILITIES COMMISSION, CHAIRMAN—

Opinion involving the transportation of materials used by a contractor performing public road work—§§4923.01, 4923.02, 4923.17 RC 628

PUBLIC WELFARE, DEPARTMENT OF—

Funds raised for soldiers' relief may not be transferred to a county department of public welfare for administration and distribution—§5901.11 RC 326

PUBLIC WELFARE DEPARTMENT OF DIRECTOR—

Expenditure for membership in American Public Welfare Association not subject to provisions of Sec. 18 of Am. Sub. H. B. 390 of 104th G.A. requiring that it expend in excess of \$1,000 for labor and materials furnished or commodities purchased, it must be pursuant to competitive bidding, or in the alternative, authorized by controlling board—Am. Sub. H. B. 390 of 104th G.A..... 391

PURCHASES—

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- 1. Department of Finance is authorized to purchase all necessary supplies and equipment for state departments if it so elects, but is without authority to determine whether any of same should be purchased.
- 2. Where controlling board has released appropriated funds of a state department for the purpose of purchasing certain equipment, the department of finance may not refuse to allow the purchase of such equipment—§§125.08, 125.11, 125.13, 125.02 RC—Sub. H. B. No. 831 of 103rd G.A. 169

PURCHASES, SUPPLIES AND EQUIPMENT—

- 1. The provisions of Sec. 14 of Am. Sub. H. B. 831 of the 103rd G.A. authorizing the controlling board to allow expenditures of moneys appropriated by that act otherwise than in accordance with the items or classifications set forth, and the provisions of Sec. 18 of that act requiring competitive bidding on expenditures of more than \$1000 except where the controlling board allows otherwise, are not in conflict with provisions of §125.13 RC, requiring that procurements and purchases of supplies or equipment or contracts for or operation of data processing of supplies or equipment or contracts for or operation of data processing machine services, must be made through the department of finance.
- 2. Where a transfer of funds is made by the controlling board pursuant to Sec. 15 of Am. Sub. H. B. 831, the funds may be expended for any item properly within the classification to which the appropriation is allocated in addition to being expended for any classification allowed by the controlling board pursuant to Sec. 14 of that Act—Sec. 14, Am. Sub. H. B. 831, 103rd G.A., Sec. 15, Am. Sub. H. B. 831, 103rd G.A. §125.13 RC 162

RACING COMMISSION—

Vacancy occurring on the racing commission when Senate is not in session—the Governor shall fill the vacancy and report the appointment to the next session—if not approved by the Senate, the Governor must appoint someone else—§§3.01, 3.03 RC 38

REAL ESTATE—

- Board of township trustees can sell real estate belonging to township and can reject all bids if such information is made available to bidders—§505.10 RC 381
- 1. Where state acquires a perpetual easement over lands on which real estate taxes are owing, for purposes of a highway, no liability attaches to the state.
- 2. In a condemnation action in which the state seeks to acquire such an easement, and real estate taxes are owed on the property, county treasurer may apply to be made party to accrued taxes.
- 3. Procedure for attaching a lien for taxes constitutes sole method of collection of delinquent real estate taxes; and there is no statutory authority for removal of delinquent taxes from tax duplicate even though foreclosure of the lien would be of no avail—Opinion 2975, OAG 1953, page 365—§§5519., 5519.01 RC 399

Real estate sold by Sheriff resulting from foreclosure because of delinquent taxes and deed is prepared by an employee whose salary is paid by the county, costs for making said deed should be taxed as costs in said foreclosure proceedings. Said costs not to be paid from proceeds of sale, but by purchaser over and above the purchase price §311.17 RC 479

REAL ESTATE BROKER—

A person licensed as a real estate broker or real estate salesman who is engaging in the sale of cemetery lots is subject to provisions of Chapter 4735 RC—Chapter 4735 RC 64

REAL ESTATE MORTGAGE LOANS: UNSECURED PROPERTY LOANS—

(improvement loans; participating mortgage loans.)

Foreign Bldg. and Loan association purchasing real estate mortgage loans, unsecured property improvement loans or making participating mortgage loans with a domestic association, is doing business in Ohio so as to require it to comply with the certificate of authority and annual filing fee requirements, provided that the transaction is not a single isolated act—§§1151.64, 1155.13 RC 449

REAL PROPERTY—

Legislative authority of a municipal corporation has no power to waive or cancel any part of a special assessment made against the real property of a board of education when special assessment has been certified to the county auditor—§727.51 RC 192

RECONSTRUCTION—GRADE SEPARATION STRUCTURE—

Director of highways may use highway funds to finance the relocation and reconstruction of a grade separation structure provided he deems it necessary to relocate and reconstruct the same outside the right-of-way of such road—§5523.19 RC 279

RECORDS, PRESERVING OF—

Public officials enumerated in §9.01 RC, are authorized to use the microfilm process of reproduction for recording, filing, maintaining and preserving of records and are authorized to dispose of the original records in accordance with provisions of §§149.31, 149.32, 149.37, 149.38, 149.39, 149.41 and 149.42, RC 184

REDISTRICTING OF WARDS—

1. Redistricting of city wards under §731.06 RC, does not become effective until next ensuing election of municipal officers.
2. When primary election is required to be held for nomination of candidates for municipal officers, the election process begins with such primary election.
3. Redistricting of wards after a primary election has no effect on general election following and does not become effective until the next ensuing election—§731.06 RC 501

REGIONAL PLANNING COMMISSION—

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Regional planning commission not a “county board” and not eligible to receive services of county prosecutor as its legal advisor— §§713.21, 309.09 RC 366

REGISTRAR, BUREAU OF MOTOR VEHICLES—

Revoking motor vehicle dealer’s and salesmen’s licenses for Sunday selling, taxing, licensing, or regulation of the sales of motor vehicles—§§4517.12, 3773.24 RC 32

1. “Auto Show” means any display of motor vehicles, primary purpose of which is exhibition of competitive makes and models, and said definition does not preclude display at an exhibition where other products are displayed in addition to motor vehicles.
2. Reference to “competitive makes and models requires that makes of more than one manufacturer be displayed”—§4517.01 RC (L)... 618

When judgment filed with Bureau of Motor Vehicles, the Registrar should suspend license of person against whom the judgment was rendered—§§4509.02, 4509.37 RC 635

REGULATION—OF THE HIGH SCHOOL ATTENDANCE OF MARRIED STUDENTS—

A board of education may not adopt a regulation prohibiting the attendance of married, or pregnant when married, students. A board of education may adopt a rule which would require students in advanced pregnancy not to attend school. In cases in which there would be a danger to the student’s physical health. A board of education may assign a teacher to home instruct pregnant students who are not allowed to attend class 205

REIMBURSEMENT (OF EXPENSES)—

Regarding reimbursement to state officials of expenses incurred while performing official duties “outside the State of Ohio”.—§§127.05, 141.15, 4901.09 RC 588

REINSTATEMENT—

1. “Reinstatement” according to §741.49 RC, means reinstatement, re-employment or renewal of membership by lawful means and not limited to meaning of §143.35 RC.
2. Patrolmen who resigned as of March 31, 1955, withdrawing money from police relief and pension fund, but re-employed in police department after taking civil service exams,—such re-employment amounts to “reinstatement in active service in police department” according to §741.49 RC—§§741.49, 143.35 RC 432

RELIEF AND PENSION FUND (FIREMEN’S)—

Volunteer firemen receiving their appointments from a duly established civil service eligibility list are entitled to membership in firemen’s relief and pension fund according to §741.01—§741 RC—Opinion 1092, OAG for 1960 436

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Bonds issued by Tennessee Valley Authority not lawful investments for funds of municipalities, firemen’s relief and pension funds or police relief and pension funds—§§731.56, 741.14, 741.45 RC..... 469

RELIEF AND PENSION FUND (POLICE)—

1. “Reinstatement” according to §741.49 RC means reinstatement, re-employment or renewal of membership by lawful means and not limited to meaning of §143.35 RC.
2. Patrolman who resigned as of March 31, 1955, withdrawing money from police relief and pension fund, but re-employed in police department after taking civil service exams, such re-employment amounts to “reinstatement in active service in police dept. “according to §741.49 RC—§§741.49, 143.35 RC 432

REMUNERATION FOR OPENING GRAVES, TOWNSHIP TRUSTEE—

A Board of township trustees may adopt rules and regulations pertaining to the digging of graves in the township cemetery and may provide (1) for opening of graves by employees of the board after the charge for service is paid, or (2) for the opening of graves by a non-employee (undertaker), but if said trustee performs the digging himself, he cannot accept remuneration for such services from outside sources 301

REPRODUCTIONS—

Public officials enumerated in §9.01, RC, are authorized to use the microfilm process of reproduction for recording, filing, maintaining and preserving of records and are authorized to dispose of the original records in accordance with provisions of §§149.31, 149.32, 149.37, 149.38, 149.39, 149.41 and 149.42 RC 180

RETAIL SALES TAX—

A judgment for state retail sales tax is authorized in §5739.13 RC, is a judgment upon which a certificate of judgment may be filed—§§5739.13, 2329.02 RC 15

REVENUES—

Revenues for use on State highways may be used by a municipal corporation to pay cost of removal of snow, etc., and leaves from such highways—§5735.28 RC 316

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Where city council prescribes salary of clerk of municipal court, mayor of city cannot veto ordinance regardless of his veto power—
 §§1901.31, 731.27 RC 376

Salary to be paid secretary of state board of Cosmetology pertains to civil service and said board may not set the salary for such position—
 §§4713.02, 143 RC 520

Payment of salary of deceased member of General Assembly for remainder of his term may be made only to deceased member's dependent—surviving spouse, children, mother, or father, in that order; and where a member dies with no dependents no further payment of salary need be made—
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SALES (OF AGRICULTURAL PRODUCTS)—

Where a district is zoned exclusively for agriculture, sales of agricultural products may be made in the district if sold on the premises where produced—
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SCHOOL BOARD—

School board not compelled to construct turn-arounds for school buses, but has the power to do so if it deems such action necessary for welfare of its children—Opinion 1465, OAG for 1952, page 382..... 604

SCHOOL BUSES—

1. Provisions of division (C) of Section 4511.75 RC apply only to school buses operating outside city limits.
2. Provisions of said division apply to school buses transporting high school students to and from school functions.
3. Whether a roadway has been divided into two roadways so as to impede vehicular traffic is a question to be determined in each particular case—
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1. Contracts between a milk company and board of education are invalid where said milk company employs two members of the board as milk truck drivers.
2. Contract for sale of school buses between board of education and auto sales agency are invalid when said agency employs a member of the board—
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School board not compelled to construct turn-arounds for school buses, but has the power to do so if it deems such action necessary for welfare of its children—Opinion 1465, OAG for 1952, page 382.. 604

SCHOOL DISTRICT CLERK—

First term of local clerk of school district as effective October 23, 1961, is a two year probationary term even though he may have held said office prior to that date, and elections for such checks should be held at meeting to be conducted on first Monday of January, 1962—
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1. A consolidated school district which is receiving school foundation funds to the total allocated to the separate districts for the year in which the consolidation took place is not receiving funds under a "similar minimum guarantee" and should not be excluded for that reason from receiving funds appropriations from emergency bill.	
2. The three-year minimum guarantee extended to newly consolidated school districts under authority of §§3317.02 RC applies only to funds received pursuant to §§3317.02 and 3317.05 RC, and does not include emergency school bus moneys—§§3317.02, 3317.05, 3317.051 RC....	229
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Am. Sub. H. B. 330 of 104th G.A., is not a law providing for a tax levy and said law goes into effect 90 days after date on which it was filed by governor in office of Secretary of State—§5739.02 RC, Sec. 1 D, Art. II, OHIO CONSTITUTION 373

- 1. Redistricting of city wards under §731.06 RC does not become effective until next ensuing election of municipal officers.
- 2. When primary election is required to be held for nomination of candidates for municipal officers, the election process begins with such primary election.
- 3. Redistricting of wards after a primary election has no effect on general election following and does not become effective until the next ensuing election—§731.06 RC 501

Professional association of engineers is authorized to incorporate. Such an association is precluded from assuming a name involving the word "engineer" or "engineering" or any modification or derivative of such term—Chapter 1785, §§1791.03, 4733.16 RC—Am. S. B. 550 of 104th G.A. 583

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The fact that an application for registration; exemption or qualification of securities is made on behalf of common law or Massachusetts type business trust does not as a matter of law prohibit the exemption, registration or qualification of its securities, certificates of beneficial interest, or shares in the trust—Chapter 1707, 1707.01 to 1707.45, 2733.01 (C) RC 155

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Vacancy occurring on the racing commission when Senate is not in session—the Governor shall fill the vacancy and report the appointment to the next session—If not approved by the Senate, the Governor must appoint someone else—§§3.01, 3.03 RC 38

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- 1. A State highway patrolman making an arrest for offenses noted in Chapter 5503., RC is acting as a peace officer. If he arrests a person found violating the laws of this state for which he is authorized to make an arrest; he must do so in accordance with the procedures prescribed by §§2935.03, —.05, —.08, and —.13 RC.

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2. If a highway patrolman arrests a person, and said person posts bond but does not appear on the specified date in court, and the judge issues a warrant for said person's arrest, the patrolman is bound by duty to serve the warrant—Chapter 5503. RC, Chapter 2935. §§2935.03, 2935.05, 2935.08, 2935.13, 2935.01 RC.....	261
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Real estate sold by Sheriff resulting from foreclosure because of delinquent taxes and deed is prepared by an employee whose salary is paid by the county, costs for making said deed should be taxed as costs in said foreclosure proceedings. Said costs not to be paid from proceeds of sale, but by purchaser over and above the purchase price—§3311.1 RC	479

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- Employees of a board of trustees of a county library district are not entitled to sick leave—§§3375.19, 3375.20, 143.29 RC 94
- Board of Education of a City school district may approve the accumulation of more than ninety days sick leave for employees of such district; when transferred to another public agency said employee should be credited with the unused balance of accumulated sick leave—§143.29 RC 136

SILICA DUST—

- 1. The words of Division (W) of §4123.68 RC, should be construed to read “for periods amounting in all to at least three years, some portion of which has been after **July 30, 1937.**”
- 2. Where a decedent had three years exposure to harmful silica of §4123.68 RC, do not preclude payment of death benefits to the decedent’s widow—§4128.68 RC 348

SNOW—

- Although a board of township trustees is authorized to clean snow from township roads, it is without authority to use township property and personnel to clean off the drives of a public school located in the township—§§5501.14, 5571.08 RC 146
- Revenues for use on state highways may be used by a municipal corporation to pay cost of removal of snow, etc. and leaves from such highways—§5735.28 RC 366

SOIL CONSERVATION COMMITTEE—

- Name given to soil conservation district by the Ohio Soil Conservation Committee may not later be changed by the committee or district—§1515.04 RC 697
- As Soil Conservation Service of Federal Government is not a “governmental subdivision”, county property may not be leased to such agency for period in excess of one year—§307.09 RC 624

SOLDIERS’ RELIEF COMMISSION, COUNTY—

- Office of member of a county soldiers’ relief commission is not incompatible with the office of prosecuting attorney of the county—§5901.02 RC 125

SOLDIERS’ RELIEF—

- Funds raised for soldiers’ relief may not be transferred to a county department of public welfare for administration and distribution—§5901.11 RC 326

SPEAKER, OHIO HOUSE OF REPRESENTATIVES—

- Opinion relating to “ITEM” disapprovals by Governor Michael V. DiSalle on bills submitted by the legislature—Opinion 1467, OAG for 1927, page 2667—Sec. 16, Art. II, OHIO CONSTITUTION—Am. Sub. H. B. 390 of 104th G.A., H. B. 831 404

SPECIAL ASSESSMENT—

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Legislative authority of a municipal corporation has no power to waive or cancel any part of a special assessment made against the real property of a board of education when special assessment has been certified to the county auditor—§727.51 RC 192

STATE AND GENERAL STATUTES—

The State is not bound by the terms of a general statute unless such is expressly provided, and there is no such provision in Chapter 3767. RC, which would permit the prosecution of an action under §3767.13 RC, against the State or its agents—§3767.13 RC 188

STATE MEDICAL BOARD—

Professional men such as doctors may associate as a partnership—§§1775.05, 1783.01, 4731.22(e) RC 110

STATEMENT—

1. Only one statement for each person under twenty-one years of age should be sent to the clerk of board of education of the school district in which the person is a school resident and such statement should be sent no later than June 30th for training received during the preceding school year.
2. No authority permitting state aid to a teacher who conducts classes for mentally retarded persons through a private organization—§5717.04 RC 651

STORAGE, VOTING MACHINES—

A board of elections may enter into a lease for a building to be used for the storage of voting machines—§§3501.11 (C), 3501.17, 3507.03, 3507.12 RC 23

STUDENTS—

1. Provisions of division (C) of §4511.75 RC, apply only to school buses operating outside city limits.
2. Provisions of said division apply to school buses transporting high school students to and from school functions.
3. Whether a roadway has been divided into two roadways so as to impede vehicular traffic is a question to be determined in each particular case—§§4511.75, 4511.35 RC 318

STUDENT (AS NONRESIDENT)—

1. "Nonresidents" refers to persons not residents of Ohio. Such term includes persons from another state who reside here temporarily and intend to return to their home state.
2. A married student attending a university in Ohio who intends to return to his home state is a "nonresident". Such person may operate a motor vehicle in Ohio if he has a permit—§4507.04 RC..... 296

STUDENT OF DENTISTRY—

Dental student may render dental services in his home provided that such services are part of his college course and under supervision of a reputable dental college—§§4715.01, 4715.09, 4715.33 RC..... 654

SUNDAY SELLING—

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Revoking motor vehicle dealer's and salesmen's licenses for Sunday selling, taxing, licensing, or regulation of the sales of motor vehicles §§4517.12, 3773.24 RC 32

SUPERINTENDENT OF BUILDING AND LOAN ASSOCIATIONS—

Foreign Bldg. and Loan Association purchasing real estate mortgage loans, unsecured property improvement loans or making participating mortgage loans with a domestic association, is doing business in Ohio so as to require it to comply with the certificate of authority and annual filing fee requirements, provided that the transaction is not a single isolated act—§§1151.64, 1155.13 RC 449

**SUPERINTENDENT OF PUBLIC INSTRUCTION,
STATE DEPARTMENT OF EDUCATION—**

A person holding an executive head certification may serve as a principal of an elementary school—§3319.28 (L) RC 245

Whether a book is a textbook, supplemental reading or reference book is a matter of fact to be decided by boards of education based on local need and intended use—§§3329.02 3329.05 RC 429

1. All administrative or supervisory employees, including elementary or high school principals, are required to have issued a certificate pursuant to 3319.22 RC, for the duties they are performing.
2. All above employees are "certificated" employees for purposes of calculation of salary allowances pursuant to 3317.052 RC, even though they may not possess the proper certificate—§§3319.01, 3319.02, 3301.07, 3319.22, 3317.061, 3317.052 RC 484

SUPERVISOR, ELEMENTARY OR HIGH SCHOOL—

Where board of education decides not to reemploy high school supervisor and elementary school supervisor, notice must be given then on or before first day of June §31911 RC, does not apply—§§3319.083, 3319.11 RC 536

SUPPLIES—

1. Department of Finance is authorized to purchase all necessary supplies and equipment for state departments if it so elects, but is without authority to determine whether any of same should be purchased.
2. Where controlling board has released appropriated funds of a state department for the purpose of purchasing certain equipment, the department of finance may not refuse to allow the purchase of such equipment—§§125.08, 125.11, 125.13, 125.02 RC—Sub. H. B. 831 of 103rd G.A. 169

SURPLUS, MUNICIPAL SEWAGE CORPORATION—

A municipal corporation has the authority to charge reasonable rentals for services it provides by its sewage system, and may use the surplus therefrom for the extension of the sewage system to serve an unsewered area—Secs. 4 and 6, Art. XVIII, OHIO CONSTITUTION—§729.52 RC 140

SURVEY—

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- Board of trustees of county hospital is without authority to contract with private consulting firm for survey on needs and future development of hospital—§§339.01 to 339.14 RC 387
- 1. Board of Education of city, exempted village or local school district not authorized to contract for comprehensive school surveys and studies, including building-related studies.
- 2. County board of education may contract with a private or public agency for survey or study relating to needs that may be rendered by the board—§§3313.37, 3315.061 RC 471

SURVEY COMMUNITY-WIDE HOSPITALS—

A county board of trustees of a county hospital is without authority to contract with a professional hospital consulting firm to survey community-wide hospital facilities and needs projected over a specified period—§§339.01 to 339.14, inclusive RC 234

TAX LEVY—

Where a tax levy is approved by the voters of a taxing district in November and the taxing authority resolves to place the additional tax on the tax list for the current year, the county auditor is required to extend such tax on the tax list provided the board of county commissioners and the department of taxes beyond December collection date—§323.17 RC—Opinion 1009, OAG 1949—§5705.191 RC 199

Am. Sub. H. B. 330 of 104th G.A., is not a law providing for a tax levy and said law goes into effect 90 days after date on which it was filed by governor in office of Secretary of State—§5739.02 RC—Sec. 1 D, Art. II, OHIO CONSTITUTION 373

If Board of Education submits question of additional tax levy to electors of school district and resolution states that such levy is to be placed on tax duplicate for current year, then if a favorable vote is received, it must be extended on current tax duplicate for collection, and after first of year, tax levy shall be included in annual tax budget certified to county budget commission—§§5705.19, 5705.21, 5705.25 RC 676

TAXATION—

Where a tax levy is approved by the voters of a taxing district in November and the taxing authority resolves to place the additional tax on the tax list for the current year, the county auditor is required to extend such tax on the tax list provided the board of county commissioners and the department of taxation may extend the time of payment of taxes beyond the December collection date—§323.17 RC—Opinion 1009, OAG 1949—§5705.191 RC 199

TAXATION (OF HOUSE TRAILERS)—

Taxation of House Trailers and collection and use of penalty fees for failure to register house trailers—§§4501.01, 4503.06 (F) (2), (H), (F) (I), 5709.01 (F) (I), 450.061 RC 708

TAXATION, DEPARTMENT OF—

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A judgment for state retail sales tax are authorized in §5739.13 RC, is a judgment upon which a certificate of judgment may be filed—
 §§5739.13, 2329.02 RC 15

Where a tax levy is approved by the voters of a taxing district in November and the taxing authority resolves to place the additional tax on the tax list for the current year, the county auditor is required to extend such tax on the tax list provided the board of county commissioners and the department of taxation may extend the time of payment of taxes beyond the December collection date—
 §323.17 RC, Opinion 1009, OAG 1949—§5705.191 RC 199

TAX COMMISSIONER—

Am. Sub. H. B. 330 of 104th G.A., is not a law providing for a tax levy and said law goes into effect 90 days after date on which it was filed by governor in office of Secretary of State—§5739.02 RC—

Sec. 1 D, Art. II, OHIO CONSTITUTION 373

Pipe line company is a public utility and should be taxed as such, even if a subsidiary of another company—§§5727.01, 5727.02 RC.... 524

TAXED—

Pipe line company is a public utility and should be taxed as such, even if a subsidiary of another company—§§5727.01, 5727.02 RC... 524

TAXES—

Clerk of a board of education cannot deduct from moneys due employees of the board any amounts representing taxes due to another state from said employees; and the board may not so invest the clerk with this power to deduct—§3313.20 RC 293

1. Where state acquires a perpetual easement over lands on which real estate taxes are owing, for purposes of a highway, no liability attaches to the state.
2. In a condemnation action in which the state seeks to acquire such an easement, and real estate taxes are owed on the property, county treasurer may apply to be made party to accrued taxes.
3. Procedure for attaching a lien for taxes constitutes sole method of collection of delinquent real estate taxes; and there is no statutory authority for removal of delinquent taxes from tax duplicate even though foreclosure of the lien would be of no avail—Opinion 2975, OAG 1953, page 365—§§5519., 5519.01 RC 399

TAXES (DELINQUENT)—

Real estate sold by Sheriff resulting from foreclosure because of delinquent taxes and deed is prepared by an employee whose salary is paid by the county, costs for making said deed should be taxed as costs in said foreclosure proceedings. Said costs not to be paid from proceeds of sale, but by purchaser over and above the purchase price
 §311.17 RC 479

TAXES, ILLEGALLY LEVIED—

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- 1. Taxes illegally levied and collected which are unexpended and in the possession of the officer collecting the same cannot be refunded under the provisions of §2723.05 RC, unless the payment of such taxes was involuntary, and it is a question of fact to be determined in each case whether a proper protest was made.
- 2. Taxes which are voluntarily paid should be applied to the purpose for which the levy was made, even though illegally made—§2723.05 RC 222

TAXES (LEVYING)—

Board of Education may remit to electors of a subdivision the question of issuing bonds and levying taxes to improve its athletic field §§3313.39, 3313.37, 135.18, 5705.19 RC 578

TAXES (PERSONAL PROPERTY)—

Persons collecting delinquent personal property taxes should be paid fixed salary for services, and county treasurer may not employ law firm for such collections where part of payment is percentage of amount collected—§5719.31 RC 700

TEACHER—

Position of clerk of a city board is incompatible with the positions of teacher, principal, assistant principal and director of curriculum in a city school district—§§3313.22, 3313.36 RC 289

- 1. Only one statement for each person under twenty-one years of age should be sent to the clerk of board of education of the school district in which the person is a school resident and such statement should be sent no later than June 30th for training received during the preceding school year.
- 2. No authority permitting state aid to a teacher who conducts classes for mentally retarded persons through a private organization—§5717.04 RC 651

TELEPHONE—

Township trustees may provide telephone in home of township clerk if said clerk has no other office—§505.26 RC—Informal Opinion 30, Informal OAG for 1959, Opinion 1572, OAG for 1933, Vol. II, page 1430, Opinion 650, OAG for 1959, page 353 735

Tenants in common, result of sale of an apartment building erected for veterans.

- 1. A board of county commissioners may sell an apartment building erected for veterans to one of the actual tenants at the appraised value.
- 2. Several such tenants purchasing the building become tenants in common each with an undivided interest in such property—§3735.611 RC 271

TENNESSEE VALLEY AUTHORITY—

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Bonds issued by Tennessee Valley Authority not lawful investments for funds of municipalities, firemen's relief and pension funds or police relief and pension funds—§§731.56, 741.14, 741.45 RC 469

TERM, UNEXPIRED—

Person elected to serve an unexpired term in the court of common pleas must present legal certificate of his election, receive governors commission, take required oath of office before he is entitled to serve in such capacity and receive salary—§§3.23, 107.05, 141.04, 141.05 RC—Sec. 7, Art. XV, OHIO CONSTITUTION 82

TITLES, LAND—

The "Notice Index" not applicable to §5309 RC, pertaining to registration of land titles; and all county recorders are required to maintain such an index regardless of fact that notices are indexed under sectional indexes as provided in 317.20 RC—§§317.201, 5309, 5301.51, 5301.52, 317.20 RC 579

TOWNSHIPS—

1. A "householder" is a person who, as head of the family, keeps or occupies a house with his family.
 2. Where a new township is designated from the territory of two townships, the zoning regulations of the two townships cease to apply—§503.02 RC 311

1. Township not liable for negligence arising from operation of township driveways, parking areas, garages and storing areas.
 2. Doctrine of proprietary functions does not apply to townships.
 3. Board of Park Commissioners not liable for negligence in maintenance of public park.
 4. Directors of township cemeteries not liable for negligence arising from management of township cemeteries.
 5. If liability of public agency for negligence is in doubt, the doubt must be resolved in favor of public and against expenditure of public money to purchase indemnity insurance protection—§§511.18, 517.20 RC—Opinion 179, OAG for 1957, page 41 540

TOWNSHIP CLERK—

Office of township clerk not incompatible with office of member of board of education for school district in which township is located—§507.01 RC 532

TOWNSHIP, CLERK OF—

Township trustees may provide telephone in home of township clerk if said clerk has no other office—§505.26 RC—Informal Opinion 30, Informal OAG for 1959, Opinion 1572, OAK for 1933, Vol. II, page 1430, Opinion 650, OAG for 1959, page 353..... 735

Township road repair, Re: the removal of dead trees endangering a road right-of-way:

- 1. It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to the center of the road.
- 2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said trees by such proceedings as nuisance abatement.
- 3. It is the duty of the municipal corp. to remove a dead tree located in a street right-of-way in said corp. Costs may be assessed against the owner of the abutting property.
- 4. It is the duty of the owners of a piece of private property in a municipal corp. to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the street and may institute abatement proceedings—§§5571.02, 3767.03, 927.02, 727.01, 3767.03, 927.22 RC... 253

TOWNSHIP TRUSTEES—

A board of township trustees has no authority, either express or implied, to enter into a contract with a village in an adjoining state for the furnishing of fire protection to the township—OAG 292 for 1957 approved and followed §505.44 RC 87

Vacancy occurring on a board of township trustees—if board does not fill the vacancy within thirty days the county court of the county must fill the vacancy—§§503.24-1907.071 RC 122

Delivery of gravel to a township does not constitute “work undertaken or prosecuted by the township” and a board of township trustees may enter into a contract to purchase gravel from a firm which has in its employ a former member of the board who resigned within the past month—§2919.10 RC 128

TOWNSHIP TRUSTEES, BOARD OF—

Although a board of township trustees is authorized to clean snow from township roads, it is without authority to use township property and personnel to clean off the drives of a public school located in the township—§§5501.14, 5571.08 RC 146

Nuisance abatement proceedings—by township trustees against private property owners for dangerous tree overhang on township roads.

- 1. It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to the center of the road.
- 2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said trees by such proceedings as nuisance abatement.

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- 3. It is the duty of the municipal corp. to remove a dead tree located in a street right-of-way in said corp. Costs may be assessed against the owner of the abutting property.
- 4. It is the duty of the owners of a piece of private property in a municipal corp. to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the stree and may institute abatement proceedings §§5571.02, 3767.03, 727.01, 927.22 RC 253

Township trustees, re: instituting nuisance abatement proceedings to compel private property owners to remove dangerous dead branch overhang from township roads.

- . It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to the center of the road.
- 2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said trees by such proceedings as nuisance abatement.
- 3. It is the duty of the municipal corporation to remove a dead tree located in a street right-of-way in said corp. Costs may be assessed against the owner of the abutting property.
- 4. It is the duty of the owners of a piece of private property in a municipal corporation to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the street and may institute abatement proceedings—§§5571.02, 3767.03, 927.02, 727.01, 927.22 RC..... 253

Township trustees, re: duty to remove tree hazard from road right-of-way.

- 1. It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to the center of the road.
- 2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said trees by such proceedings as nuisance abatement.
- 3. It is the duty of the municipal corporation to remove a dead tree located in a street right-of-way in said corporation. Costs may be assessed against the owner of the abutting property.
- 4. It is the duty of the owners of a piece of private property in a municipal corporation to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the street and may institute abatement proceedings—§§5571.02, 3767.03, 927.02, 727.01, 927.22 RC 253

Township trustees, re: requesting the director of agriculture to act to remove a dangerous tree overhang on the townships road.

- 1. It is the duty of a board of township trustees to keep the township roads in good repair; it is their duty to remove an obstructing tree even if property owners along the road own up to the center of the road.

2. Where a tree located on private property along a township road has dangerous branches hung over the road, removal is the duty primarily of the owner, but township trustees are obligated to remove said tree by such proceedings as nuisance abatement.

3. It is the duty of the municipal corporation to remove a dead tree located in a street right-of-way in said corporation. Costs may be assessed against the owner of the abutting property.

4. It is the duty of the owners of a piece of private property in a municipal corporation to remove overhangings from his property over a public street. The municipal corporation also is responsible to protect the users of the street and may institute abatement proceedings—§§5571.02, 3767.03, 927.02, 727.01, 927.22 253

A deed to a cemetery lot issued and executed by a board of township trustees does not require the acknowledgment of deeds, mortgages and leases—§§517.07, 5301.01 RC 283

Boards of township trustees are without authority to levy an income or payroll tax—Sec. 2, Art. X, OHIO CONSTITUTION 295

A Board of township trustees may adopt rules and regulations pertaining to the digging of graves in the township cemetery and may provide (1) for opening of graves by employees of the board after the charge for service is paid, or (2) for the opening of graves by a non-employee (undertaker), but if said trustee performs the digging himself, he cannot accept remuneration for such services from outside sources 301

Elective position of township trustee and janitor of highway patrol station, a civil service position, are not compatible—§143.41 RC.... 334

One person may not simultaneously serve as a deputy sheriff and member of a board of township trustees in a county—§§505.441, 311.05 RC 335

Where in 1948 a person was hired by a board of township trustees and required to join the Public Employees Retirement System, but said person worked until 1957 before becoming a member of the system and terminated his employment in 1958, the board of township trustees is required to make employer contributions for the period when his employment began in 1948 to the time he joined the System in 1957, and if the board fails to make such payment, the Public Employees Retirement System may proceed under §145.51 RC to effectuate payment of the delinquent amount—Sec. 486-33 Gen. Code §145.51 RC 353

Board of township trustees can sell real estate belonging to township and can reject all bids if such information is made available to bidders—§505.10 RC 381

Board of township trustees may not improve township hall at cost in excess of \$2,000.00 without submitting question to township electors—§511.01 RC 393

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Township trustee attending health district advisory council meeting not entitled compensation under §505.24 RC as he is not performing duties relating “to partition fences” or “business of the township”— §§3709.03, 505.24 RC—Opinion 747, OAG for 1949, page 414 509

Board of township trustees without authority to acquire real estate to establish an airport—§4563 RC 551

Board of township trustees authorized to purchase and maintain necessary fire-fighting equipment and finance such purchase over period of four years by issuance of notes—§505.37 RC—Opinion 1415, OAG for 1952, Overruled 621

Township trustees may provide telephone in home of township clerk if said clerk has no other office—§505.26 RC—Informal Opinion 30, Informal OAG for 1959—Opinion 1572, OAG for 1933, Vol. II, page 1430—Opinion 650, OAG for 1959, page 353 735

TRAILERS (HOUSE)—

Taxation of house trailers and collection and use of penalty fees for failure to register house trailers—§§4501.01, 4503.06 (F) (2), (H), (F), (I), 5709.01 (F) (I), 4503.061 RC 708

TRANSFER OF FUNDS—

1. The provisions of Sec. 14 of Amended Substitute House Bill 831 of the 103rd General Assembly authorizing the controlling board to allow expenditures of moneys appropriated by that act otherwise than in accordance with the items or classifications set forth, and the the provisions of Sec. 18 of that act requiring competitive bidding on expenditures of more than \$1,000 except where the controlling board allows otherwise, are not in conflict with the provisions of §125 RC with the provisions of §125.13 RC, requiring that procurements and purchases of supplies or equipment or contracts for or operation of data processing of supplies or equipment or contracts for or operation of data processing machine services, must be made through the department of finance.

2. Where a transfer of funds is made by the controlling board pursuant to Sec. 15, of amended substitute House Bill 831, the funds may be expended for any item properly within the classification to which the appropriation is allocated in addition to being expended for any classification allowed by the controlling board pursuant to Sec. 14 of that act—Sec. 14, Amended Sub. H. B. 831, 103rd G.A.—Sec. 15, Amended Sub. H. B. 831, 103rd G.A.—§125.13 RC 162

TRANSFER, SCHOOL DISTRICT—

Territory of a school district may not be transferred to another school district if such transfer would leave the original school district with two non-contiguous territories—§3311.06 RC 106

TRANSFER, SICK LEAVE—*Page*

Board of Education of a city school district may approve the accumulation of more than ninety days sick leave for employees of such district; when transferred to another public agency said employee should be credited with the unused balance of accumulated sick leave—§143.29 RC 136

TREASURER, COUNTY—

Persons collecting delinquent personal property taxes should be paid fixed salary for services, and county treasurer may not employ law firm for such collections where part of payment is percentage of amount collected—§5719.31 RC 700

TREASURER (MUNICIPAL CORPORATION)—

1. Fines assessed by the court of common pleas, in jury trial cases involving violations of a municipal ordinance, should be paid into the county treasury.
2. Treasurer of a municipal corporation not authorized to demand and receive such fine—§§2937.08, 733.44, 733.46 RC 329

TRUST—

The fact that an application for registration; exemption or qualification of securities is made on behalf of common law or Massachusetts type business trust does not as a matter of law prohibit the exemption, registration or qualification of its securities, certificates of beneficial interest, or shares in the trust—Chapter 1707, §§1707.01 to 1707.45, 2733.01 (C) RC 155

TRUSTEE (COUNTY HOSPITAL)—

1. Office of public institution not connected with a county, municipal corporation, or board of education.
2. County hospital established under §399 RC is public institution. Trustee of said hospital is not connected with county.
3. Such member can be interested in county contract if amount does not exceed fifty dollars; if amount exceeds fifty dollars, he may be interested if contract is let on bids advertised as provided by law—§§2919.08, 2919.09, 399 RC 694

TRUSTEES, LIBRARY DISTRICT—

Employees of a board of trustees of a county library district are not entitled to sick leave—§§3375.19, 3375.20, 143.29 RC 94

TRUSTEES, (BOARDS OF TRUSTEES OF STATE UNIVERSITIES)—

1. Board of trustees of Ohio State University, Bowling Green University, Ohio University and Central State College are authorized to travel outside state on official business at state expense without approval of emergency board. All other officers and employees, including trustees of Miami University must have emergency board approval.

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2. Words "at state expense" refer to expenses paid from monies appropriated by the legislature. Expenses paid from other sources, such as from an athletic fund, need not have emergency board approval—§§3335.02, 3337.01, 3341.02, 3343.04 and 127.05 RC	682
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Clerk of common pleas who holds money, such as fees and trust funds, may deposit such in a bank, and any interest earned on said deposit accrues to the fees or trust funds comprising the deposit—§§131.11, 2919.02 RC	748
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Revenues of a tuberculosis hospital may be used for patients admitted who have illnesses other than tuberculosis—§§5705.20, 399.45 RC	337
TURN-AROUND POINTS (SCHOOL BUSES)—	
School board not compelled to construct turn-arounds for school buses, but has the power to do so if it deems such action necessary for welfare of its children—Opinion 1464, OAG for 1952, page 382 ..	604
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1. §3735.31 RC, authorizing a metropolitan housing authority to invest, must be construed with the Uniform Depository Act, Chapter 135 RC, under which investment of such funds is limited to obligations of the United States and State of Ohio.	
2. §3735.31 RC, does not authorize loan of funds to a municipal corporation, and such a loan is unlawful—§§3735.31, 135 RC	671
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§3709.07 RC, does not authorize a union of a general health district and a city health district which is partly within and partly without said general health district—§3709.07 RC	195
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1. Board of trustees of Ohio State University, Bowling Green University, Ohio University and Central State College are authorized to travel outside state on official business at state expense without approval of emergency board. All other officers and employees, including trustees of Miami University must have emergency board approval.	
2. Words "at state expense" refer to expenses paid from monies appropriated by the legislature. Expenses paid from other sources, such as from an athletic fund, need not have emergency board approval—§§3337.01, 3335.02, 3341.02, 3343.04, and 127.05 RC ...	682
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Vacancy occurring on a board of township trustees—if board does not fill the vacancy within thirty days the county court of the county must fill the vacancy—§503.24, 1907.071 RC	122

VACATION (OF STREET OR ALLEY)—	<i>Page</i>
Where petition made to legislative authority of a municipal corporation for vacation of street or alley, said petition must contain plat showing way to be vacated and said plat should be recorded by county recorder and fee for such recording to be paid by said legislative authority—§§723.04, 711.39, 317.32 RC	567
VACATION LEAVE—	
County employee may accumulate vacation leave earned, but not used during his county service, and the payment of such earned but unused vacation leave to an employee upon separation should be at his current rate of pay—§325.19 RC	67
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Payment of money to survivors of personal representatives of the estate of a deceased employee of a school district for unused vacation time accumulated by employee before his death is not authorized—§§121.161, 2113.04 RC	615
VEHICLES (VEHICULAR TRAFFIC)—	
1. Provisions of division (C) of §4511.75 RC apply only to school buses operating outside city limits.	
2. Provisions of said division apply to school buses transporting high school students to and from school functions.	
3. Whether a roadway has been divided into two roadways so as to impede vehicular traffic is a question to be determined in each particular case—§§4511.75, 4511.35 RC	318
VENDOR'S LICENSE—	
An applicant for a dog kennel license is not required to obtain a vendor's license before such kennel license will be issued; and where a proper application for a kennel license is made, the auditor should issue said license—§§955.04, 5539.17 RC	150
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Vacancies occurring in Board of Education to be filled pursuant to §3313.11 RC—which is exception to §3.02 RC—§§3313.11, 3.02 RC .	444
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1. All persons licensed with State Veterinary Board must register with board by January 31, 1962, or Jan. 31, 1963, and pay fee of ten dollars. Said requirement applies to non-resident as well as resident licenses.	
2. All licenses issued prior to January 1, 1958 are valid if holders thereof comply with above requirements—§§4741.171, 4741.16 RC .	720
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Where city council prescribes salary of clerk of municipal court, mayor of city cannot veto ordinance regardless of his veto power—§§1901.31, 731.27 RC	376

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