

I do not believe that the court has the power to certify any bill which is not incurred in accordance with the provisions of the Juvenile Court Code or other laws of the State of Ohio and that the county may well refuse to pay such expense.

However, you state in your letter that the county commissioners refuse to make payment. Although I have my doubts whether or not they are the proper officers to take this action, since the result is the same I do not believe it necessary to comment on this matter.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2864.

APPROVAL—SUMMARY PROPOSED CONSTITUTIONAL
AMENDMENT, TO ARTICLE XII BY ADDING A NEW
SECTION 2 AND REPEALING EXISTENT SECTIONS 2
AND 8—IN RE: EXCISE TAX, REAL ESTATE, PERSONAL
PROPERTY, MOTOR VEHICLES, NET INCOMES.

COLUMBUS, OHIO, August 24, 1938.

MR. WALTER W. H. BAERTSCH, 1843 *Summit St., Toledo, Ohio.*

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state, containing a proposed constitutional amendment and a summary of the same under Section 4785-175, General Code. It is proposed to amend Article XII of the Constitution by adopting and adding thereto a new section to be known as Section 2, to read as follows:

“No sales tax, so-called, or excise tax shall be levied or collected upon the sale, purchase, use, rendition, processing, manufacture, consumption, distribution or exchange of personal property, goods, wares, merchandise or services, except taxes upon the sale, purchase, manufacture or distribution of gasoline or other liquid motor fuel, solid or powdered motor fuel, alcoholic, vinous or maltous beverages, materials used in the manufacture thereof and tobacco products. The licensing of the operation of motor vehicles, motor vehicle transportation by common carriers, and the licensing of drivers of motor vehicles may be provided by law, at rates not exceeding those now in effect.

No ad valorem tax shall be assessed, levied or collected on any real or personal property, or any evidence of title to or interest therein, and except as hereinafter provided, no tax shall be levied or collected upon the gross, or net, income therefrom or upon the use thereof. Assessments may be levied on real estate, not exceeding 50% of the value of the lots or lands with value determined prior to improvement commencement, distributed over a period of ten (10) years, only for petitioned improvements, and where petitions contain signatures of the owners of a majority of the foot frontage or acreage affected, and for the retirement of bonds issued therefor, interest being figured outside limitation. Assessments for such purposes, in excess of 50% of the value and for more than 10 years, may be levied when petitioned for as above specified and approved by the electors of the district affected thereby at a general election.

In lieu of ad valorem taxes, laws shall be enacted to provide for the levy and collection of taxes on net incomes at a scale of rates graduated in proportion to the amounts thereof; and laws may be enacted providing for the levy and collection of taxes on taxable incomes of the calendar year or fiscal year preceding the enactment of the act.

Taxable incomes of \$1,200.00 or less, per annum shall not be taxed in excess of one per cent (1%) for all local and state purposes; but laws may be enacted providing that when approved by the electors voting at an election in the taxing district affected thereby, additional taxes for local purposes may be levied and collected at a uniform rate upon all taxable incomes, without exemption or deduction on individual incomes.

The General Assembly shall enact legislation to effectuate the purposes of this section; and in such legislation adequate provision shall be made for paying the existing or authorized public debt. No income shall be exempted by classification predicated on occupation or the source from which income is derived.

Section 8 of Article 12 is hereby repealed; but none of the provisions of this section shall otherwise affect or modify Section 10 of Article 12, and none of the provisions of this section shall be construed or applied to prevent the taxation of public utilities, banks or other monied capital in competition therewith by any method which conforms to the Constitution of the United States, Federal Statutes and decisions of Federal Courts.

Upon failure to enact income tax legislation, the Auditor of State shall establish and certify for collection the requisite rates together with rules and regulations for raising revenue for state and local government.

This amendment when adopted shall take precedence over any others in conflict therewith notwithstanding the provisions of Section 1-B of Article 2, and remain effective until expressly repealed."

The summary of this amendment reads as follows:

"The Constitutional Amendment proposed by this Petition repeals Section 2 and Section 8 of Article 12 of the Constitution of Ohio, and substitutes in lieu thereof a new Section 2 of Article 12.

It prohibits the Sales Tax, so-called, or excise tax except upon motor fuel, alcoholic beverages and tobacco products.

It prohibits the taxing of real estate and personal property.

It limits assessments against real estate to petitioned improvements and to fifty (50) per cent of value of lots or lands distributed over a period of ten (10) years and permits higher assessments and for longer periods only by a vote of electors in taxing district affected.

It provides for the licensing of the operation of motor vehicles, motor vehicle transportation by common carriers, and the licensing of drivers of motor vehicles, at rates not exceeding those now in effect.

It provides for the taxing of net incomes at a scale of rates graduated in proportion to the amounts thereof, and places a limitation of one (1%) per cent tax on first \$1,200.00 of annual taxable incomes, but permits additional levies when voted for by a majority of the electors in a taxing district, at a uniform rate upon all taxable incomes.

It provides laws may be enacted providing for the levy and collection of taxes on taxable incomes of the calendar year preceding the enactment of the act; and adequate provision shall be made for paying the existing or authorized public debt.

It provides the General Assembly shall enact legislation to effectuate the purposes of this section; but no income shall be exempted because of occupation or source from which income is derived.

It provides upon failure to enact income tax legislation, the Auditor of State shall establish and certify for collection the requisite rates together with rules and regulations for

raising revenues for state and local government, and the amendment when adopted shall take precedence over any others in conflict therewith."

I am of the opinion that the foregoing is a fair and truthful statement of the proposed constitutional amendment and accordingly submit for uses provided by law the following certification:

"Without passing upon the advisability of the adoption of the proposed constitutional amendment, but pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the foregoing summary is a fair and truthful statement of the proposed constitutional amendment. HERBERT S. DUFFY, Attorney General."

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2865.

AID FOR THE AGED—RECIPIENT—NO VESTED INTEREST IN AMOUNT STATED IN ANY PARTICULAR WARRANT WHERE HE IS PAYEE UNTIL WARRANT ENDORSED BY RECIPIENT.

SYLLABUS:

As a general rule the recipient of aid for the aged has no vested interest in the amount stated in any particular warrant in which he is named as the payee until the warrant has been endorsed by the recipient-payee designated in the instrument. Opinions of the Attorney General, 1935, Vol. I, page 215, approved and followed.

COLUMBUS, OHIO, August 25, 1938.

HON. H. J. BERRODIN, *Chief, Division of Aid for the Aged, Department of Public Welfare, Columbus, Ohio.*

DEAR SIR: This will acknowledge the receipt of your recent communication which reads as follows:

"Would you please give us a formal written opinion upon the following fact situations and questions? In this opinion,