

streets, and for no other purpose; section 5537, General Code, states that the municipal corporations' portion of the motor vehicle fuel tax, provided for in the preceding sections, shall be used for the sole purpose of maintaining, repairing, constructing and repaving the public streets and roads therein; and section 5541-8, General Code, states that the municipal corporations' portion of the motor vehicle fuel tax provided for in section 5541, General Code, shall be used for the sole purpose of constructing, maintaining, widening, reconstructing, cleaning and clearing the public streets and roads therein and for the purchase and maintenance of traffic lights.

It is to be seen that these three sections provide for practically the same purposes for which these funds may be used, except that the last section contains a few additional purposes not contained in the first two sections above referred to.

Assuming that the nature of the road improvement to which you refer comes within the purposes which are contained in these three sections, I am of the opinion that, since the money which the city will pay by reason of the assessments levied upon it by the county commissioners, will be for the sole purpose of paying a portion of the cost of the improvement in question, the municipality's share of these tax funds may be used therefor provided the property so assessed is not the property of any municipally owned public utility.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4092.

LEGAL ADVERTISEMENT—RATES OF TAXATION—NECESSITY OF PUBLISHING IN PAPERS OF OPPOSITE POLITICS WHERE MUNICIPALITY HAS MORE THAN EIGHT THOUSAND INHABITANTS.

SYLLABUS:

In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of the notice of rates of taxation must be made for six consecutive weeks in two newspapers of opposite politics in each such city.

COLUMBUS, OHIO, February 26, 1932.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your recent communication which reads as follows:

“Section 2648 of the General Code provides that the County Treasurer shall cause the notice of rates of taxation to be inserted for six consecutive weeks in a newspaper having a general circulation in the County. Section 6252 of the General Code provides that such notice shall be published in two newspapers of opposite politics at the County seat, and in Counties having cities of eight thousand or more inhabitants, not the county seat, additional publication of such notice shall be made in two newspapers of opposite politics in such city.

QUESTION: Is the County Treasurer required to publish notice of rates of taxation for six consecutive weeks in two newspapers published in cities having a population of eight thousand or more, not the County seat?"

Section 2648, General Code, provides as follows:

"Upon receiving from the county auditor a duplicate of taxes assessed upon the property of the county, the county treasurer shall immediately cause notice thereof to be posted in three places in each township of the county, one of which shall be at the place of holding elections in such township, and also be inserted for six consecutive weeks in a newspaper having a general circulation in the county. Such notice shall specify particularly the amount of taxes levied on the duplicate for the support of the state government, the payment of interest and principal of the public debt, the support of state common schools, defraying county expenses, repairing of roads, keeping the poor, building of bridges, township expenses and for each other object for which taxes may be levied on each dollar valuation."

Section 6252, General Code, reads as follows:

"A proclamation for an election, an order fixing the times of holding court, notice of the rates of taxation, bridge and pike notices, notice to contractors and such other advertisements of general interest to the taxpayers as the auditor, treasurer, probate judge or commissioners may deem proper, shall be published in two newspapers of opposite politics at the county seat, if there be such newspapers published thereat. In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of such notices shall be made in two newspapers of opposite politics in such city. This chapter shall not apply to the publication of notices of delinquent tax and forfeited land sales."

As to the publication required, section 2648, General Code, provides that publication shall be made for six consecutive weeks in a newspaper having a general circulation in the county, while section 6252, General Code, provides that publication shall be made in two newspapers of opposite politics in the county seat, if such there be, and also in cities of eight thousand or more inhabitants which are not county seats.

It has been held that these two statutes are in *pari materia* and are to be read and construed together. *Elliott vs. Commissioners*, 16 Bull. 69; *State vs. Commissioners*, 1 O. D. 584; Report of the Attorney General for 1910-1911, page 815; Opinions of the Attorney General for 1918, Vol. I, page 307; Opinions of the Attorney General for 1918, Vol. II, page 1611; Opinions of the Attorney General for 1927, Vol. I, page 327.

The case of *State vs. Commissioners*, *supra*, held that the provisions of section 6252 are mandatory and that while section 2648 only provides for publication in a newspaper having a general circulation in the county, publication of the tax rate must be made in two newspapers of opposite politics published in the county seat as required by section 6252. It would follow, therefore, that additional pub-

lication must be made in cities of eight thousand or more inhabitants which are not county seats, as that is also required by section 6252.

Likewise, similar provisions are contained in section 1519 and 1534, General Code, relative to the publication of an order fixing the time of holding court. Construing these sections, the first branch of the syllabus in Opinions of the Attorney General for 1915, Vol. II, page 1925, reads as follows:

“The provisions of section 6252, G. C., requiring the publication of the ‘times for holding courts’ to be made in two newspapers of ‘opposite politics,’ as therein specified, are supplementary to and control the provisions of the special statutes requiring such publications to be made in one or more newspapers of general circulation.”

Construing the same statutes, it is said in Opinions of the Attorney General for 1916, Vol. II, page 1771:

“It does not seem to me, therefore, that there is such a conflict between the two statutes that it can be said that section 1519 G. C. is exclusive of the provisions of section 6252 G. C. but rather that the two may be read together without in any way doing violence to the language of either. If there are two newspapers of opposite politics at the county seat an order fixing the time of holding court should be printed in such newspapers. If in such county there is a city of eight thousand inhabitants or more, not a county seat, additional publication shall be made in two newspapers of opposite politics if there be such in such city, * * *.”

Specifically answering your inquiry, I am of the opinion, therefore, that in counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of the notice of rates of taxation must be made for six consecutive weeks in two newspapers of opposite politics in each such city.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4093.

UNIFORM BOND ACT—SUBDIVISION MAY BORROW IN ANTICIPATION OF COLLECTION OF CURRENT REVENUES—AMOUNT BASED ON ESTIMATED INCOME FROM GENERAL PROPERTY TAXES.

SYLLABUS:

In determining the limitation of the amount which may be borrowed by the taxing authority of any subdivision, in anticipation of the collection of current revenues, as provided in Section 2293-4 of the General Code, the taxing authority is limited by the estimated income of such taxing authority as determined by the budget commission by Section 5625-26 of the General Code, and such limitation is the amount of money which the taxing authority is estimated to receive from