

1. In the event an initiative petition proposing an amendment to the Constitution has been circulated in the year 1929, and a number of signatures then secured thereto, such signatures if secured in accordance with the laws then in force and effect may be considered sufficient and counted in determining the requisite number of signatures upon such petition when filed in 1930.

2. When copy of such petition was filed in 1929, under the provisions of Section 5175-29c, General Code, as then in force and effect, additional signatures may now be secured to such petition.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1500.

APPROVAL, FINAL RESOLUTION AND CONTRACT FOR ROAD IMPROVEMENTS IN GEAUGA AND LICKING COUNTIES.

COLUMBUS, OHIO, February 7, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

1501.

APPROVAL, NOTES OF JUNCTION CITY-JACKSON VILLAGE SCHOOL DISTRICT, PERRY COUNTY—\$70,000.00.

COLUMBUS, OHIO, February 7, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1502.

COUNTY BUILDINGS—SECTION 2333, GENERAL CODE, CONSTRUED—HOW TO DETERMINE WHETHER BOND ISSUE FOR EXTENSION TO COURT HOUSE SHOULD BE SUBMITTED TO PEOPLE—INCORPORATING IN ONE RESOLUTION MORE THAN ONE IMPROVEMENT AUTHORIZED.

SYLLABUS:

1. *The provisions of Section 2333, General Code, do not apply to the alteration or extension of an existing court house.*

2. *When bonds are proposed to be issued for the purpose of building an extension to an existing court house, the question of whether or not such issue must*

be submitted to a vote of the electors is governed by Section 2293-16, General Code.

3. In the event it is proposed to construct a new county building for a heating plant at a cost to exceed twenty-five thousand dollars, the provisions of Sections 2333, et seq., are applicable.

4. Under the provisions of Sections 2293-19 and 2293-20, General Code, the matter of issuing bonds for the extension of an existing court house and for the construction of a new county building for a heating plant may be incorporated in one resolution.

COLUMBUS, OHIO, February 7, 1930.

HON. C. E. MOYER, *Prosecuting Attorney, Sandusky, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“The county commissioners of this county contemplate improving and enlarging the present court house in this county, at a cost exceeding \$25,000.00 and it would necessitate the issuing of bonds for the improvement as there are no available funds for said improvement.

The question arises as to whether or not the commissioners shall proceed under authority of Section 2433 of the General Code or under the authority of Section 2333 of the General Code, for the reason that Section 2333 seems to pertain to the building of a new court house or new county building and of course the contemplated improvement is for the present court house.

It is the contention of some of the members that the board can issue bonds, without a vote of the people, where the cost is greater than \$25,000.00 for said improvement, under authority of Section 2333 of the General Code.

Another question arises in that the commissioners also contemplate, aside from the improving of said court house proper, a new building for a heating plant and the purchase of a new heating system, at a cost greater than \$25,000.00, and in that case shall the commissioners proceed under authority of Section 2333, General Code?

Part of the improvement to said court house as contemplated is the building of an additional wing, at a cost greater than \$25,000.00 and would that be considered a new building under 2333, G. C., or would it be considered enlarging the court house under 2433, G. C.?

It is my opinion that in all of the questions presented above, under the facts as stated, the board of county commissioners should proceed under Section 2333 and the following sections pertaining to building a new court house and other public buildings in the county, but there seems to be some difference of opinion regarding the matter.

Will you kindly give me your opinion regarding same?”

Section 2333, General Code, to which you refer, is as follows:

“When county commissioners have determined to erect a court house or other county building at a cost to exceed twenty-five thousand dollars, they shall submit the question of issuing bonds of the county therefor to vote of the electors thereof. If determined in the affirmative, within thirty days thereafter, the county commissioners shall apply to the judge of a Court of Common Pleas of the county who shall appoint four suitable and competent freehold electors of the county, who shall in connection with the county commissioners constitute a building commission and serve until

its completion. Not more than two of such appointees shall be of the same political party."

Referring first to the matter of whether or not the provisions of this section extend to only the erection of a court house and not to the construction of an addition to a court house already existing, your attention is directed to Opinion No. 543, rendered under date of June 19, 1929, to Hon. Don. W. Myers, Prosecuting Attorney, Elyria, copy of which is enclosed, in which it was held as disclosed by the third branch of the syllabus that:

"In case an existing court house is to be altered, repaired, improved, enlarged or extended, the provisions of Section 2333, General Code, do not apply * * * ."

Considering next the matter of the proposed construction of a new building for a heating plant, it is evident that Section 2333 has direct application, since the reference therein is to a court house "or other county building" and if the cost of such county building is to exceed twenty-five thousand dollars, the procedure set forth in Sections 2333, et seq., should be followed.

Coming now to the matter of the necessity of submitting these questions to the electors, Section 2293-16, General Code, being part of the Uniform Bond Act, sets forth the limitations of indebtedness that may be created or incurred by a county and contains the following proviso:

"Provided that, except by vote of the electors, bonds shall not be issued by any county in an amount exceeding twenty thousand dollars in any period of five years, for the acquisition, construction, improvement, enlargement or extension of any one county building, including the acquisition of a site therefor, but this limitation shall not apply to buildings for a district consisting of two or more counties."

Section 2433, General Code, to which you refer, was amended by the 87th General Assembly and incorporated in the Uniform Bond Act. This section provides as follows:

"The taxing authorities of any county in addition to other powers conferred by law shall have power to purchase, appropriate, construct, enlarge, improve, rebuild, equip and furnish a court house, county offices, jail, county infirmary, detention home, public market houses, county children's home and other necessary buildings, and sites therefor; also, such real estate adjoining an existing site as such taxing authority may deem necessary for any of the purposes aforesaid, including real estate necessary to afford light, air, protection from fire, suitable surroundings, ingress and egress."

Since it is proposed to issue bonds for the construction of an addition to the present court house in an amount greater than twenty thousand dollars, as set forth in your letter, this question must be submitted to the electors under the provisions of Section 2293-16, supra, and since it is proposed to issue bonds in an amount greater than twenty-five thousand dollars for the construction of a building for a heating plant, such question must be submitted to the electors under the provisions of both Sections 2333 and 2293-16, General Code. The procedure to be followed in submitting this question should be as set forth in the Uniform Bond

Act and your attention is especially directed to Section 2293-20, thereof, which reads as follows:

“The resolution provided for in the foregoing section shall relate only to one purpose. ‘One purpose’ shall be construed to include, in the case of a county or township any number of roads, highways, bridges and viaducts; in the case of a municipality any number of streets, bridges, and viaducts, including the municipality’s share in streets to be improved in part by assessment; in the case of a school district any number of school buildings; and in any case all expenditures, including the acquisition of a site and purchase of equipment, for any one utility, building or other structure, or group of buildings or structures for the same general purpose, or for one or more roads, highways, bridges and viaducts included in the same resolution.”

While it is here expressly provided that one purpose in the case of a county shall include any number of roads, highways, bridges and viaducts without any reference in the first part of the section to buildings, I am of the view that the later provision in the section, apparently referring to all subdivisions, that all expenditures for any group of buildings or structures for the same general purpose may be included in the same resolution, is sufficiently broad to authorize the submission of these two questions together in case the board of county commissioners should desire so to do. This is optional with the board.

Summarizing and in specific answer to your inquiries, I am of the opinion that:

1. The provisions of Section 2333, General Code, do not apply to the alteration or extension of an existing court house.
2. When bonds are proposed to be issued for the purpose of building an extension to an existing court house, the question of whether or not such issue must be submitted to a vote of the electors is governed by Section 2293-16, General Code.
2. In the event it is proposed to construct a new county building for a heating plant at a cost to exceed twenty-five thousand dollars, the provisions of Sections 2333, et seq., are applicable.
4. Under the provisions of Sections 2293-19 and 2293-20, General Code, the matter of issuing bonds for the extension of an existing court house and for the construction of a new building for a heating plant may be incorporated in one resolution.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1503.

APPROVAL, BONDS OF SALEM-ADAMS RURAL SCHOOL DISTRICT,
MUSKINGUM COUNTY—\$15,000.00.

COLUMBUS, OHIO, February 7, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.