

thorized the county surveyor to purchase materials and to lease equipment and tools necessary to carry on certain work by force account, the commissioners may revoke such authority by rescinding the legislation conveying such authority to the county surveyor and provide by legislation that the commissioners, acting as a board, will make the necessary purchases.

Of course, at the outset, it must be conceded that the commissioners may not by action of theirs affect the legality of obligations created by the county surveyor for purchase of materials already made or leases already entered into for equipment and tools.

However, the commissioners having the right to amend or repeal legislation which will not affect or impair the obligation of contracts or leases made pursuant to their legislation, and further, having authority to purchase machinery, tools and equipment under the provisions of Section 7200, *supra*, and materials under the provisions of Section 7214, *supra*, and it being discretionary in the first instance as to their authorizing the county surveyor to purchase materials and lease equipment and tools as provided by Section 7198, *supra*, it is my opinion that the county commissioners may rescind the legislation authorizing the county surveyor to purchase materials and lease equipment and tools so long as such action does not impair the obligations of any contract or lease already entered into and still in effect."

In the foregoing opinion, the situation was the reverse of that before us in the present instance. In the 1927 opinion the county surveyor was authorized by the resolution to purchase the materials, while under the present facts, the county commissioners possess the right to purchase materials. However, such opinion illustrates the principle that county commissioners may rescind a resolution of a nature such as was passed in this instance, providing such action does not affect obligations already incurred under the original resolution.

Hence, I am of the view, in specific answer to your fourth question that county commissioners have power to rescind a resolution adopting a road program and appropriating the fund after it has been approved and certified to the county auditor, providing such action does not affect obligations already incurred under the original resolution.

Coming now to your fifth and last question, I may say that it has been heretofore shown that the county commissioners in adopting the resolution set forth herein, did not and could not confer any legal right on the county surveyor to *purchase* machinery. Such being the case, the county commissioners, although not so stating in the resolution, have the power by virtue of sections 7200 and 7203, General Code, to purchase road machinery and pay for it out of the fund against which the appropriation made by the resolution is drawn.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

4140.

APPROVAL, BONDS OF CITY OF AKRON, OHIO, \$8,000.00.

COLUMBUS, OHIO, APRIL 10, 1935.

*State Employees Retirement Board, Columbus, Ohio.*