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APPROVAL, BONDS OF MORROW COUNTY, OHIO—\$30,023.59.

COLUMBUS, OHIO, February 25, 1931.

Industrial Commission of Ohio, Columbus, Ohio.

2990.

MUNICIPALITY—ASSISTANT TO SOLICITOR—EMPLOYED FOR SOLE PURPOSE OF APPEARING IN PROCEEDINGS CONCERNING MUNICIPAL LIGHT AND POWER PLANTS—COMPENSATION PAYABLE FROM LIGHT AND POWER FUND.

SYLLABUS:

The compensation of an assistant to the solicitor employed by a city under authority of council for the sole purpose of appearing in proceedings concerning the municipal light and power plant may be paid from the light and power fund of a municipality.

COLUMBUS, OHIO, February 25, 1931.

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

GENTLEMEN:—Acknowledgment is hereby made of your recent communication, which reads:

“Section 4306, G. C., authorizes the employment of assistants to the city solicitor. In Opinion No. 1278, page 295, year 1916, the Bureau was advised that a city council may not employ special counsel or attorneys, but could authorize such employment as assistant to the solicitor. The Bureau was further advised that the council should fix the compensation.

“The city of.....owns and operates a municipal electric light and power plant, and in 1926 instituted ouster proceedings against an electric power company which was operating in the city ofin competition with the light plant and without a franchise. This case was litigated through the Supreme Court of Ohio and terminated favorably to the city and an order of ouster was issued. Trustees for the bond holder of the electric power company instituted injunction proceedings in the United States District Court, and it has become necessary for the city to employ assistants to the solicitor. The general fund is depleted and the question of using the balance in the light fund for the purpose of paying the assistants appointed for the specific purpose of prosecuting the case in the United States Courts, has been presented to the Bureau.

Question: In view of these conditions, may compensation of assistants to the city solicitor be paid from the city light fund?”

For the purpose of this opinion, I assume that the municipal electric light and power plant in question is owned and operated by a non-charter city or one whose charter does not contain provisions relating to the subject in question conflicting with those found in the General Code.

It is to be noted that Article XVIII, Section 4, of the Constitution of Ohio, and Section 3816, General Code, grant to municipalities the power to establish light, power and heating plants. Sections 4324 et seq. place the management of municipal public utilities under the control of the Director of Public Service. Section 4305, General Code, requires, among other things, that the city solicitor