

the Legislature could have intended that upon taking a census such as is provided for in Section 4688-1, General Code, there could be predicated an intention to become an exempted village school district, which intention was not formed until four years after the taking of the census. Many changes with respect to the number of inhabitants of any territory may occur in a four-year period. It was apparently the intention of the Legislature that no district should become an exempted village school district unless it actually had a population of 3,000, and that fact was definitely shown by the taking of the census such as is described in the statute, and the approval of that census by the Director of Education. Action to become exempted following the census should, in my opinion, be taken within a reasonable time, so as to preclude, in so far as possible, the possibility of such a change in population as to render the number of inhabitants in the district less than 3,000. Four years, in my opinion, is sufficiently long to render it possible, at least, for the territory to have lost enough inhabitants to cause the population to be less than 3,000.

I do not find from your statement or from the copies of proceedings submitted that a census of the Millersburg-Hardy District was taken as provided by Section 4688-1, General Code, after the one taken in 1926, or that a petition was filed therefor.

I am therefore of the opinion that the action of the Millersburg-Hardy Board of Education, of April 29, 1930, deciding to become exempted from county supervision without the taking of a census, as provided for by Section 4688-1, General Code, within a reasonably short time prior thereto upon which the action of the board is based, is unauthorized and of no effect, and that the Millersburg-Hardy School District, in accordance with the facts submitted to me, is now a village school district of the Holmes County School District, subject to the supervision of the Holmes County Board of Education.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2058.

STATE HIGHWAY IMPROVEMENT—FORM OF ADVERTISEMENT FOR BIDS RECEIVED.

SYLLABUS:

Proposed form of advertisement under the requirements of Section 1206 of the General Code, discussed.

COLUMBUS, OHIO, July 7, 1930.

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

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

“I am submitting herewith for your consideration copy of legal advertisement as formerly published by this department; also copy of legal advertisement now in use by this department.

You will note we have cut the information to interested parties to a minimum.

Your opinion on this matter will be very much appreciated.”

The copy of the advertisement which relates to Project No. 105 apparently is the one formerly used by your department and reads as follows:

Project No. 105

Unit Price Contract

NOTICE TO CONTRACTORS

State of Ohio

Department of Highways

COLUMBUS, OHIO, January 31, 1930.

Sealed proposals will be received at the office of the STATE HIGHWAY DIRECTOR, at Columbus, Ohio, until 2 o'clock P. M., Eastern Standard Time, Tuesday, February 25, 1930, for improvement in:

Cuyahoga County on Section "E-2" of the Cleveland-Burton Road, S. H. No. 33, State Route No. 87, in Hunting Valley Village and Orange Township, by grading roadway, draining and paving with one of the following types:

Sheet Asphalt, estimated cost of construction..... \$55,207.02
Concrete, estimated cost of construction..... 50,802.74

Width: Pavement 20 ft. Roadway 27-44 ft.

Length 3,591.05 ft. or 0.68 mile.

Date set for completion, July 1, 1930.

The bidder must submit with his bid a certified check in an amount equal to five per cent (5%) of the estimated cost, but in no event more than ten thousand (\$10,000.00) dollars.

Plans and specifications are on file in the office of the Director of Highways and the Resident District Deputy Director of Highways.

The Director reserves the right to reject any and all bids.

ROBERT N. WAID,
State Highway Director.

The copy of the new advertisement which you propose to use reads as follows:

NOTICE TO CONTRACTORS

STATE OF OHIO

DEPARTMENT OF HIGHWAYS

COLUMBUS, OHIO, May 27, 1930.

Sealed proposals will be received at the office of the State Highway Director, of Ohio, at Columbus, Ohio, until two o'clock P. M., Eastern Standard Time, Tuesday, June 24, 1930, for improvements on a portion of State Highway No. 50, in Fayette County, Ohio.

Plans and specifications are on file in the office of the State Highway Director and the Resident District Deputy Director.

ROBERT N. WAID,
State Highway Director.

It is assumed from your communication that you desire to know whether or not the new form meets the requirements of Section 1206 of the General Code, which outlines the method of procedure to govern your action in connection with the awarding of contracts. The section requires the advertisement for bids for two consecutive weeks in two newspapers of general circulation and of the two dominant political parties published in the county in which the improvement, or some part thereof, is located, if there be such papers so published. If there be no such papers then the statute requires the advertisement to be made in two newspapers having general circulation in said counties. The section also authorizes the director to advertise for bids in such other publications as he deems advisable. The following, which is the only language in said section which definitely relates as to what the notice shall contain, reads:

“Such notices shall state that plans and specifications for the improvement are on file in the office of such director and the resident district deputy director of the district in which such improvement, or some part thereof, is located, and the time within which bids therefor will be received.”

While there are other provisions of said section it is believed that the foregoing will suffice for the purposes of this opinion.

The form of advertisement which you now contemplate using indicates the time within which bids will be received and describes the improvement with reference to the number of the highway and the county in which the said improvement is to take place and further describes the same, of course, by reference to the plans and specifications which are on file.

This is probably a sufficient description of the improvement, if at the time of publishing such notice only one portion of State Highway No. 50 is to be improved in Fayette County. Of course if two portions of this highway were being improved in that county at the time of publication of the notice submitted, and each portion were to be improved under separate contract, the notice would not comply with the portion of Section 1206, hereinabove quoted. In the absence of any information to the contrary I assume that when an advertisement such as the one you submit is used, there is only one improvement under way upon the specified highway in a given county, and predicate my conclusion herein upon that assumption.

While I am not passing upon the policy of using the short form which you submit, upon examination it is believed that it contains all of the essential requirements of the statute.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2059.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND MIDDLE STATES CONSTRUCTION COMPANY, FOR CONSTRUCTION AND COMPLETION OF OHIO STATE ARMORY AT PIQUA, OHIO, AT AN EXPENDITURE OF \$63,381.00—SURETY BOND EXECUTED BY THE FIDELITY AND CASUALTY COMPANY OF NEW YORK.

COLUMBUS, OHIO, July 7, 1930.

HON. ARTHUR W. REYNOLDS, *Adjutant General, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by and through Arthur W. Reynolds, Adjutant General and Director