

2192.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE KAUFFMAN-LATTIMER COMPANY, COLUMBUS, OHIO, FOR THE CONSTRUCTION OF CABINET WORK, CHEMISTRY BUILDING, OHIO STATE UNIVERSITY, COLUMBUS, OHIO, AT AN EXPENDITURE OF \$23,656.26.

COLUMBUS, OHIO, June 2, 1928.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Board of Trustees of the Ohio State University, and The Kauffman-Lattimer Company, of Columbus, Ohio. This contract covers the construction and completion of Cabinet Contract, Chemistry Building, Ohio State University, Columbus, Ohio, and calls for an expenditure of Twenty-three Thousand Six Hundred Fifty-six and 26/100ths (\$23,656.26) dollars.

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also furnished evidence to the effect that the consent of the Controlling Board to the expenditure has been obtained, as required by Section 12 of House Bill No. 502 of the 87th General Assembly. In addition you have submitted a contract, upon which the Commercial Casualty Insurance Company appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

2193.

SYNOPSIS—OHIO CONSTITUTION, ARTICLE IV, SECTION 14—COMPENSATION OF JUDGES—DISAPPROVAL.

SYLLABUS:

*Disapproving synopsis of proposed amendment of Section 14 of Article IV of the Constitution of Ohio.*

COLUMBUS, OHIO, June 2, 1928.

MESSRS. BECKERMAN & FELSMAN, *Attorneys-at-Law, 525 National City Bank Bldg., Cleveland, Ohio.*

GENTLEMEN:—Under the provisions of Section 5175-29e, General Code, which, inter alia, provides:

“\* \* \*

Whoever proposes to file an initiative or referendum petition may submit to the attorney general a fair and impartial synopsis of such proposed law or amendment and if such synopsis is a truthful statement of the contents and purpose of such proposed law or amendment he shall so certify. Such synopsis together with the attorney general's certification may be printed in capital letters immediately following the notice provided for in Section 5175-29f. The text of the proposed law or amendment shall be printed in full at the end of each part of the petition.”

you have submitted to me for examination and approval, the following synopsis of a proposed amendment of Section 14 of Article IV of the Constitution of Ohio, reading as follows:

“The content and purpose of the proposed Amendment are as follows:

Under the provisions of our present Constitution, any law passed by the Legislature awarding an increase in salary or compensation of Judges of Courts, applies to and is effective only to any Judge or Judges appointed or elected following the enactment of the law. Judges in office at the time of the enactment of the law are, therefore, denied the increase in judicial salary or compensation provided for by such law. This Amendment will make effective to Judges in office the increase intended for them by the Legislature and will avoid the unusual situation of Judges of the same Court doing exactly the same work receiving a different salary. This Amendment will secure equality in the operation of the law and make the law applicable to all Judges of the same Court as soon as it becomes applicable to any one Judge of such court.”

It is proposed to amend Section 14 of Article IV of the Constitution of Ohio to read as follows:

“The Judges of the Supreme Court, and of the Court of Common Pleas, shall at stated times, receive, for their services, such compensation as shall be provided by law; which shall not be diminished or increased during their term of office, except as hereinafter provided; but they shall receive no fees or perquisites, nor hold any office of profit or trust under the authority of this State, or of the United States. All votes for either of them, for any elective office, except a judicial office, under the authority of this State, given by the General Assembly, or the People, shall be void. Provided, that whenever any law now existing or hereafter enacted, increasing the salaries or compensation of the Judges of the Supreme Court, Court of Appeals, the Common Pleas Court, the Probate Courts of the State of Ohio, the Judges of the Municipal Court of any Municipality in the State of Ohio, or the Judges of any other Courts inferior to the Court of Appeals as may have been or may hereafter be established by law, becomes effective as to any Judge of either the Supreme Court, Court of Appeals, the Common Pleas Court, the Probate Courts of the State of Ohio, the Municipal Court of any Municipality in the State of Ohio, or of any other Courts inferior to the Court of Appeals as may have been or may hereafter be established by law, then such law shall be deemed equally effective and in operation, according to its provisions, as to all Judges of such Court, anything contained in Article II, Section XX of this Constitution to the contrary notwithstanding.”

I cannot approve the proposed synopsis transmitted with your letter, for the reason that in my opinion this synopsis, as submitted, is not fair and impartial and does not contain a complete statement of the contents of said proposed amendment.

When the synopsis hereinafter suggested is examined, it will be readily apparent in what way the synopsis submitted by you is deficient as to contents.

As to the proposed synopsis not being fair and impartial, I think it manifest that the statement to the effect that this "amendment will make effective to Judges in office the increase *intended for them by the Legislature and will avoid the unusual situation of Judges of the same Court doing exactly the same work receiving a different salary*" is argumentative in favor of the adoption of the proposed amendment. It can hardly be said, in view of our present constitutional provisions, that, where the Legislature passes an act increasing the pay of certain judges, the Legislature intends such increased pay for the judges in office at the time of the passage and effective date of the law. On the contrary, it is to be presumed that acts passed by the Legislature are passed with knowledge of and in accord with the provisions of the Constitution. The expression to the effect that the amendment will avoid the "unusual situation" of judges of the same court receiving different salaries is also of more than doubtful propriety, in view of the fact that the provisions of Section 14 of Article IV, as it now reads have for many years been a part of the fundamental law of this state. Other phrases in the proposed synopsis are equally objectionable.

I have prepared a synopsis and statement of the contents and purpose of the proposed amendment, to indicate how, in my opinion, such synopsis should be drawn. In case you desire to submit the synopsis prepared by me, or one similarly drawn, prepared by yourself, the same will be given immediate consideration.

The synopsis suggested is as follows:

"The proposed amendment provides that:

The judges of the Supreme Court and of the Court of Common Pleas shall, at stated times, receive for their services, such compensation as shall be provided by law, but shall receive no fees or perquisites;

Such judge shall not hold any office of profit or trust under authority of this state or of the United States, and all votes for either of them, for any elective office except a judicial office, under the authority of this state, shall be void;

The compensation for such judges, provided by law, shall not be diminished or increased during the term of office of such judges, except that, whenever any law now existing, or hereinafter enacted, increasing the salary or compensation of judges of the Supreme Court, Court of Appeals, the Common Pleas Court, the Probate Courts, the Municipal Court of any Municipality, or any other court established by law, becomes effective as to any judge of the courts enumerated, then such law shall be deemed equally effective and in operation as to all judges of such courts, notwithstanding the provisions of Section 20 of Article II of the Constitution of Ohio.

The purpose of the proposed amendment is as follows:

Under the provisions of the Constitution, as it now reads, any law enacted by the Legislature increasing or decreasing the salary of compensation of judges of the courts above enumerated, is effective only as to such judge or judges as may be elected or appointed after the effective date of such law. The proposed amendment will make any law now existing, or hereinafter enacted, increasing the salary or compensation of judges of the courts enumerated, effective as to all judges of such courts, whenever, and at the time, such law becomes effective as to any judge of said courts.

I, Edward C. Turner, Attorney General of the State of Ohio, do hereby certify that the foregoing is a fair and impartial synopsis of the proposed amendment of Section 14 of Article IV of the Constitution of Ohio, and is a truthful statement of the contents and purpose of such proposed amendment.

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In case you desire to adopt this synopsis, this opinion may be regarded as an official certification thereof.

In passing, your attention is directed to the fact that the words "Article II, Section XX" in the last line of the proposed amendment should read "Article II, Section 20."

Respectfully,  
 EDWARD C. TURNER,  
*Attorney General.*

2194.

OFFICES—TRUSTEE AND SUPERINTENDENT OR ACTING SUPERINTENDENT OF OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME—INCOMPATIBLE.

*SYLLABUS:*

*A member of the Board of Trustees of The Ohio Soldiers' and Sailors' Orphans' Home can not legally be appointed by such Board as Superintendent or "Acting Superintendent" of said Home. The two positions are incompatible.*

COLUMBUS, OHIO, June 4, 1928.

HON. M. R. LIMB, *President, Board of Trustees, The Ohio Soldiers' and Sailors' Orphans' Home, Xenia, Ohio.*

DEAR SIR:—This will acknowledge your letter of recent date which reads as follows:

"Enclosed you will find a copy of a letter from Mr. Brenneman, Secretary of the Ohio Budget Board.

May I request a ruling upon the legality as to whether Miss Bailey can be, by action of the Board, allowed the salary of the Assistant Superintendent of the Ohio Soldiers' and Sailors' Orphans' Home. She has served in this capacity since March 27th, but the Board is in doubt as to whether a member of the Board, acting as Superintendent can be paid for such services."

The letter of the Superintendent of the Budget, which you enclose, in so far as pertinent, reads:

"I presumed that your minutes would show that you were appointed Acting Superintendent at the salary appropriated for Superintendent. However, the minutes simply state, 'Miss Bailey was requested to remain at the Home and represent the Board until a Superintendent is employed.' This record would not be sufficient to authorize payment as covered by your voucher No. 548.