

As section 2623, General Code, provides that the sealer may charge certain fees, it is my opinion that fees may be charged by the county sealer or his deputy against all persons owning the weights and measures sealed by the county sealer or deputy and such fees must be paid into the county treasury under the provisions of section 2977 G. C.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

1355.

COUNTY CHILDREN'S HOMES—WHEN SUPPLIES SHOULD BE PURCHASED FROM THE DEPARTMENT OF WELFARE—SECTION 1847 G. C. CONSTRUED.

*SYLLABUS:*

*Officials of county children's homes are required, under the provisions of section 1847 of the General Code, to purchase needed articles for such institutions, which articles the department of public welfare is prepared to supply, from the department of welfare, in the event the department of welfare has notified such officials in writing that said department is prepared to supply such articles, unless the department of welfare, having been requested to furnish such articles, shall give notice to such officials, in writing, that the same cannot be furnished within thirty days from the date of the request.*

COLUMBUS, OHIO, April 14, 1924.

HON. J. KENNETH WILLIAMSON, *Prosecuting Attorney, Xenia, Ohio.*

DEAR SIR:—Receipt is acknowledged of your recent communication, in which you submit the following inquiry:

“Are Superintendents of County Children’s Homes compelled to purchase supplies such as can be obtained from The Ohio Welfare Department under section 1847 G. C., or can supplies for said Homes be purchased from merchants in their home town?”

Section 1847 of the General Code reads:

“The board shall, with the advice and consent of the secretary of state and auditor of state, classify public buildings, offices and institutions and determine the kinds, patterns, designs and qualities of articles to be manufactured for use therein, which shall be uniform for each class, so far as practicable. Whenever the board shall give written notice to the state purchasing agent or other official or officials having lawful authority to purchase such article or articles that it is prepared to supply them from any institution under its control, such state purchasing agent or other official or officials shall make any needed purchases of said articles from such institution unless the chief officer thereof, or the board having been requested to furnish such article or articles shall give notice in writing that the same cannot be furnished within thirty days from the date of the request. Provided, however, that if the state purchasing agent requires such article or articles within thirty days from the day of making such request and so

states upon the face of such request, it shall be the duty of the chief officer of such institution or the board to forthwith advise the state purchasing agent whether it will be able to furnish such article or articles within such thirty days. And if it is impossible to furnish such article or articles within such time, the state purchasing agent may purchase such article or article in the open market as in other cases. The provisions of this section shall not apply to any officer, board or agent of any municipality which maintains an institution that produces or manufactures articles of the kind desired. Any person knowingly violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not to exceed twenty-five dollars for the first offense nor more than one hundred dollars for each subsequent offense."

In an opinion of my predecessor rendered March 10, 1913, (Vol. II, page 967), according to the head-note thereof, it was held:

"Under sections 1846 and 1847, General Code, the board of administration may compel county and municipal officers to purchase articles manufactured by state institutions under the control of the board, except such officers as maintain institutions which produce the articles themselves. The price shall be uniform, however, and no higher than the usual market price."

The powers and duties of the board of administration have, by the provisions of section 154-57 of the General Code been transferred to the department of welfare. Directing attention to pertinent parts of the above quoted section, it is provided:

"Whenever the board shall give written notice to the state purchasing agent *or other official or officials* having lawful authority to purchase such article or articles that it is prepared to supply them \* \* \*, such state purchasing agent *or other official or officials* shall make any needed purchases of said articles from such institution. \* \* \*"

It will be noted that the above quotation is general and specifically says: "or other official or officials," and is not limited in its terms to state officials. This theory is strengthened by a later clause in the section, which reads:

"The provisions of this section shall not apply to any officer or board or agent of any municipality which maintains an institution that produces or manufactures articles of the kind desired."

This provision excepts from the operation of the statute municipalities maintaining an institution producing or manufacturing the articles desired, and thereby carries with it the inference, which is as strong as the exception, that other municipalities are subject to the operation of the statute, and clearly shows that all public officials, including those of a County Children's Home but excepting those designated in the above quoted section, are subject to the operation of the provisions of the section.

In passing, it should be said that the officials of the County Children's Home would not be subject to the operation of the provisions of the section quoted unless the department of welfare first gave such officials notice in writing that it is prepared to supply the articles desired. And in the event, upon request by the officials of the County Children's Home, the department of welfare notified, in writing, such

officials that the articles requested could not be furnished within thirty days from the date of the request, such officials would not be subject to the provisions of said section and would be at liberty to purchase such articles from other sources.

Respectfully,

C. C. CRABBE,

*Attorney General.*

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1356.

APPROVAL, BONDS OF CHESAPEAKE RURAL SCHOOL DISTRICT, LAWRENCE COUNTY, \$16,308.34, TO FUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, April 14, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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1357:

APPROVAL, BONDS OF CHESAPEAKE RURAL SCHOOL DISTRICT, LAWRENCE COUNTY, \$3,700.00, TO PURCHASE AND OBTAIN SITE UPON WHICH TO ERECT SCHOOL BUILDING.

COLUMBUS, OHIO, April 14, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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1358.

APPROVAL, BONDS OF CLINTON TOWNSHIP RURAL SCHOOL DISTRICT, KNOX COUNTY, \$8,152.03, TO FUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, April 14, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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1359.

APPROVAL, BONDS OF JELLOWAY RURAL SCHOOL DISTRICT, KNOX COUNTY, \$576.31, TO FUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, April 14, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*