

it is believed that the provisions of this section may not be considered as a limitation directed to the provisions of section 3407 G. C., since the former is thought merely to provide for the adoption by such incorporated associations as the section mentions of certain regulations and organized laws for the purpose of the government of said associations, and does not attempt to consider unincorporated associations in this or any other respect. Hence, it is not thought that section 9972 G. C. attempts to preclude the payment of the funds raised by the tax levy under section 3407 G. C., to unincorporated or private associations, as specified by the provisions of that section.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3233.

MUNICIPAL CORPORATION—MEMBER OF COUNCIL MAY UPON EXPIRATION OF TERM OF OFFICE AND WITHIN ONE YEAR LIMITATION PRESCRIBED BY SECTION 12912 G. C. QUALIFY AND ACT AS DIRECTOR OF PUBLIC SERVICE.

Under the provisions of section 12912 G. C. a member of council of a municipality, may upon the expiration of his term of office as councilman and within the one year limitation prescribed by the section, qualify and act as director of public service of the same city, said section prohibiting such an officer only from acting as commissioner, architect, superintendent, or engineer in work undertaken or prosecuted by the corporation during the term for which he was elected or for one year thereafter.

COLUMBUS, OHIO, June 17, 1922.

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

GENTLEMEN:—Receipt is acknowledged of your recent communication which reads as follows:

“Section 12912 G. C., provides in part that:

‘Whoever being an officer of a municipal corporation or member of council thereof, or a trustee of a township, is interested in the profits of a contract, job, work or service for such corporation or township, or acts as a commissioner, architect, superintendent or engineer in work undertaken or prosecuted by such corporation or township during the term for which he was elected or appointed or for one year thereafter, etc.’

Opinions of the Attorneys-General No. 398 of 1912, volume II, page 1743, and No. 6 of 1917, volume I, page 10, held that a councilman in a city might resign and immediately be appointed as street commissioner in a city; an office subordinate to that of director of public service.

Question: May a member of council immediately upon expiration of his term of office be legally appointed director of public service of the same city in view of the ‘one year’ provision of section 12912 G. C.?”

Pertinent to your inquiry, section 12912 G. C. reads as follows:

"Sec. 12912. Whoever, being an officer of a municipal corporation or member of the council thereof or the trustee of a township, is interested in the profits of a contract, job, work or services for such corporation or township, or acts as commissioner, architect, superintendent or engineer, in work undertaken or prosecuted by such corporation or township during the term for which he was elected or appointed, or for one year thereafter, or becomes the employe of the contractor of such contract, job, work, or services while in office, shall be fined not less than fifty dollars nor more than one thousand dollars or imprisoned not less than thirty days nor more than six months, or both, and forfeit his office."

Construing the section quoted with reference to the one year provision thereof, it was held in a previous opinion of this department under date of January 20, 1917, volume I, 1917 Opinions of the Attorney-General, as follows:

"It has always been considered by this department that the one year provision served merely as a prohibition against such officer acting as commissioner, architect, superintendent, or engineer in work undertaken or prosecuted by such corporation within one year after his term had expired."

Opinion No. 398, Opinions of the Attorney-General 1912, volume II, page 1744, construing the same section held in part:

"The purpose of this section is to prevent an officer of a municipality from having any interest in the profits of any contract or work done for the city. It specifically prohibits such officer from acting as commissioner, architect, superintendent or engineer in work undertaken by the municipality during the term for which he was elected or appointed and for one year thereafter. The statute seeks to prevent any officer from securing any interest in any contract with the municipality, so that he might not be tempted to use his official position to further the interests of a contractor or himself.

It is not the purpose of the statute to prevent an officer from holding another office in the village or city, at the expiration of the term of his first office, even though the second office has duties which pertain to work undertaken by the municipality. Likewise this section does not prevent an officer resigning a position in the city government and accepting appointment to another office in the service of the city."

Agreeing with the construction placed upon the section by the two opinions cited, and applying a similar process of reasoning to your question, it is thought that the one year provision indicated by section 12912 G. C., would not apply as to limit or affect the right of a member of council upon the expiration of his term of office to qualify as director of public service in the same city in which he had served as member of council, since it is not thought that the office of director of public service could be said to come within the statutory prohibition as expressed by the language used in section 12912 G. C. which prohibits an officer of a municipality in the instance from acting as commissioner, architect, superintendent, or engineer in work undertaken or prosecuted by the corporation during the term for which he was elected or appointed or "for one year thereafter."

Approaching the subject from a different viewpoint, it may also be reasoned that the director of public service is the head of a municipal department directly

responsible to the mayor for his appointment, and as such an official, is fully amenable to the provisions of the General Code which prohibits him from deriving any personal benefits or having any interests other than official in the contracts made by the corporation, hence it is not thought that the provisions of section 12912 G. C. were intended as a limitation upon the qualifications of the office of director of public service, and under such circumstances as your inquiry indicates, no reason can be seen why a city councilman whose term of office has expired, may not be appointed director of public service in the same municipality as that in which he served as member of council, provided of course that he is qualified in other respects for the holding of such an office.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3234.

COUNTY SCHOOL DISTRICT—VILLAGE SCHOOL DISTRICT THAT IS SITUATED IN TWO DIFFERENT COUNTIES AND WHICH IS PART OF COUNTY SCHOOL DISTRICT IN WHICH GREATER PART OF TERRITORY COMPRISING VILLAGE DISTRICT IS SITUATED MAY BE TRANSFERRED TO AN ADJOINING SCHOOL DISTRICT.

A village school district that is situated in two different counties, and which is a part of the county school district in which the greater part of the territory comprising the village district is situated, may be transferred from the county school district, of which it is a part, to an adjoining county school district, under the provisions of section 4696 G. C.

COLUMBUS, OHIO, June 17, 1922.

HON. VERNON M. RIEGEL, *Director of Education, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for the opinion of this department upon the following:

“Section 4684 of the General Code is as follows:

‘Each county, exclusive of the territory embraced in any city school district and the territory in any village school district exempted from the supervision of the county board of education by the provisions of sections 4688 and 4688-1, and territory detached for school purposes, and including the territory attached to it for school purposes, shall constitute a county school district. In each case where any village or rural school district is situated in more than one county such district shall become a part of the county school district in which the greatest part of the territory of such village or rural district is situated.’

“Can a village district that is situated in two different counties and which is a part of the county school district in which the greatest part of the territory comprising the village district is situated, according to section 4684, be transferred from the county district of which it is a part, to an adjoining county district under the provisions of section 4696 G. C.?”