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1. BONDS UNDER UNIFORM BOND ACT, SECTION 2293-1 ET SEQ., G. C.—MAY BE ISSUED BY COUNTY COMMISSIONERS WITHIN \$20,000.00 LIMITATION, SECTION 2293-16, G. C., TO REMODEL COUNTY JAIL, WITHOUT SUBMITTING QUESTION OF ISSUANCE TO ELECTORS—PROVISO, THEY CAN BE ISSUED WITHIN PRESCRIBED NET INDEBTEDNESS LIMITATIONS AND BE SERVICED WITHIN AGGREGATE TEN MILL TAX LIMITATION OF ARTICLE XII, SECTION 2, CONSTITUTION OF OHIO—BONDS MAY NOT BE ISSUED IN EXCESS OF \$20,000.00 AND NET INDEBTEDNESS LIMITATIONS OF SECTION 2293-16, G. C., WITHOUT APPROVAL OF ELECTORS.

2. NO PROVISION IN UNIFORM BOND ACT TO DECLARE EMERGENCY TO ENABLE COUNTY COMMISSIONERS TO ISSUE UNVOTED COUNTY JAIL IMPROVEMENT BONDS IN EXCESS OF LIMITATIONS ON BONDED INDEBTEDNESS PRESCRIBED BY SECTION 2293-16, G. C.

SYLLABUS:

1. Bonds may be issued by county commissioners under the Uniform Bond Act (Section 2293-1, et seq., General Code), within the \$20,000 limitation prescribed by Section 2293-16, for the purpose of remodeling the county jail, without submitting the question of their issuance to the electors, provided they can be issued within the net indebtedness limitations prescribed by the first paragraph of that section, and be serviced within the aggregate ten mill tax limitation of Section 2 of Article XII of the Ohio Constitution; but bonds may not be issued in excess of the \$20,000 and net indebtedness limitations of that section without the approval of the electors.

2. The Uniform Bond Act makes no provision for the declaration of an emergency for the purpose of enabling county commissioners to issue unvoted county jail improvement bonds in excess of the limitations on bonded indebtedness prescribed by Section 2293-16, General Code.

Columbus, Ohio, November 29, 1945

Hon. Milton J. Andrews, Prosecuting Attorney
Ironton, Ohio

Dear Sir:

This will acknowledge receipt of your letter in which you state that the county board of health has condemned the Lawrence county jail as being unfit for human habitation, and inquire if the county commissioners may declare an emergency and issue bonds for the purpose of remodeling the jail without first submitting the question of their issuance to the electors of the county.

The issuance of bonds by county commissioners for such purpose is governed by the provisions of the Uniform Bond Act, Section 2293-1 et seq., General Code, except as modified by the Ohio federal aid bond law hereinafter referred to. One of these sections particularly applicable to your inquiry is Section 2293-16, which, so far as pertinent, reads as follows:

"The net indebtedness created or incurred by any county without vote of the electors shall never exceed a sum equal to

one per cent of the first one hundred million dollars or part thereof of the tax list of the county plus one-half of one per cent of such tax list in excess of one hundred million dollars. * * *

Provided that, except by vote of the electors, bonds shall not be issued by any county in an amount exceeding twenty thousand dollars in any period of five years, for the acquisition, construction, improvement, enlargement or extension of any one county building, including the acquisition of a site therefor, but this limitation shall not apply to buildings for a district consisting of two or more counties."

It will be noted that the statute just referred to expressly provides that bonds in excess of \$20,000 shall not be issued in any period of five years on account of any one county building "except by vote of the electors." No provision is made in that or any other statute for the declaration of an emergency for the purpose of enabling the commissioners to issue unvoted bonds in excess of the \$20,000 limitation. However, if the county commissioners of your county, which has a tax list of less than \$100,000,000, desire to issue unvoted bonds in an amount not in excess of the \$20,000 limitation, they may do so provided their issuance will not cause the 1% net indebtedness limitation of Section 2293-16 to be exceeded, and the tax levies to service the bonds can be made within the aggregate ten mill limitation prescribed by Section 2 of Article XII of the Ohio Constitution.

Similar questions involving the issuance of bonds for the purpose of improving county court houses were considered by two of my predecessors in office. Their opinions are reported in Opinions of the Attorney General for 1929, page 833; and for 1930, page 227. While these opinions did not involve any question of emergency, they fully support in other respects the conclusions I have stated above regarding the issuance of voted and unvoted jail improvement bonds.

Before closing, your attention is called to the Ohio federal aid bond law (Sections 2293-87 to 2293-91, General Code) hereinbefore referred to. This law applies to projects constructed by political subdivisions in cooperation with the federal government. In case your county commissioners should secure the financial cooperation of the federal government in making the jail improvement you have in mind, bonds might be issued for the county's share of the cost which would not be subject to the limitations on bonded indebtedness imposed by the Uniform Bond Act.

You are therefore advised as follows:

1. Bonds may be issued by the county commissioners under the Uniform Bond Act (Section 2293-1 et seq., General Code) within the \$20,000 limitation prescribed by Section 2293-16, for the purpose of remodeling the county jail, without submitting the question of their issuance to the electors, provided they can be issued within the net indebtedness limitations prescribed by the first paragraph of that section, and be serviced by taxes levied within the aggregate ten mill tax limitation of Section 2 of Article XII of the Ohio Constitution; but bonds may not be issued in excess of the \$20,000 and net indebtedness limitations of that section without the approval of the electors.

2. The Uniform Bond Act makes no provision for the declaration of an emergency for the purpose of enabling county commissioners to issue unvoted county jail improvement bonds in excess of the limitations on bonded indebtedness prescribed by Section 2293-16, General Code.

Respectfully,

HUGH S. JENKINS

Attorney General