

4. Lease No. 2154 made by W. H. Doran of Seneca County, Ohio, for 100 acres of land situated in Hopewell Township, Seneca County, Ohio.

5. Lease No. 2155 made by Walter and Rosa McClure of Seneca County, Ohio, for 54.41 acres of land situated in Hopewell Township, Seneca County, Ohio.

Finding the above documents to be executed in proper legal form, I have attached my signature thereto in approval of the same.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4324.

APPROVAL, BONDS OF FAIRVIEW VILLAGE SCHOOL DISTRICT,
CUYAHOGA COUNTY, OHIO—\$9,700.00.

COLUMBUS, OHIO, May 14, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

4325.

SALARY—CITY COUNCILMAN MAY BE SECRETARY OF BOARD OF TRUSTEES OF FIREMEN'S PENSION OR POLICE RELIEF FUND AND RECEIVE COMPENSATION FOR BOTH POSITIONS.

SYLLABUS:

Where a councilman of a city which has no charter, who is a member of the board of trustees of the firemen's pension or police relief fund, has been elected secretary of such board, he may receive such compensation therefor as may be fixed by said board, in addition to his salary as councilman.

COLUMBUS, OHIO, May 16, 1932.

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

GENTLEMEN:—I acknowledge receipt of your communication which reads as follows:

"Section 4616, G. C., provides that two members of the trustees of the firemen's pension fund or the police relief fund shall be chosen by the city or village council from its own members.

In Opinion No. 1522, page 259 of the 1930 Opinions, it was held—

'A councilman who is chosen to act as one of council's representatives on the board of trustees of the firemen's pension fund is not holding another public office or employment within the meaning of the

charter provision that members of council shall not hold any other public office or employment except that of notary public or member of the state militia.'

The charter provision referred to in the above Opinion compares generally with Section 4207 General Code.

Question. May a city councilman who is a member of the firemen's pension fund trustees, or the police relief fund trustees, and has been elected secretary of such pension fund trustees, legally receive a salary for such office of secretary, in addition to his salary as councilman?

We would appreciate an opinion from you on this question at your convenience."

Section 4616, General Code, provides as follows:

"In any municipal corporation, having a police department supported in whole or in part at public expense, the council by ordinance may declare the necessity for the establishment and maintenance of a police relief fund. Thereupon a board of trustees who shall be known as 'trustees of the police relief fund' shall be created, which shall consist of six members, who shall be chosen in the following manner: Two members shall be chosen by the city or village council, or other legislative body, from among its own members; two members shall be elected by the police department from members of its own department; two other members shall be residents of the municipality and not members of the council, or other legislative body, or of the city and village police department, one of whom shall be chosen by the two members chosen by the municipal council, or other legislative body, and one shall be chosen by the two members elected by the members of the police department. In the event of a tie vote on any matter whatsoever the six members so chosen shall choose a seventh member, whose vote shall decide the question."

Section 4620, General Code, provides as follows:

"The trustees shall elect a chairman and a secretary. The secretary shall keep a full record of the proceedings of the board of trustees of the police relief fund, and the board may fix his compensation therefor to be paid from such fund."

Sections 4600 and 4604, General Code, with reference to trustees of the firemen's pension fund contain similar provisions.

Section 4207, General Code, provides in part as follows:

"Each member of council shall be an elector of the city, shall not hold any other public office or employment, except that of notary public or member of the state militia, and shall not be interested in any contract with the city."

Section 3808, General Code, reads in part as follows:

"No member of the council, board, officer or commissioner of the corporation, shall have any interest in the expenditure of money on the part of the corporation other than his fixed compensation."

The same conclusion contained in the opinion to which you refer has since been reached in the case of *Moxon vs. State*, 36 O. A. 24. Both in this case and in my opinion it is stated that inasmuch as membership on the board of trustees of the police relief or firemen's pension fund is not another public office or employment, it was unnecessary to decide whether sections 4600 and 4616 would override the provision of the city charter prohibiting a member of council from holding any other public office or employment.

In the case you present, which is that of a city which has no charter, it is immaterial whether or not membership on such board of trustees or the office of chairman or secretary thereof is an additional public office or employment. Sections 4600 and 4616, General Code, expressly provide that two of such trustees shall be elected from the council or other legislative body so that even if such trusteeship were a public office or employment it would have to be held to be an exception to the prohibition contained in sections 4207 and 3808, General Code. Since there is nothing in sections 4604 and 4620, General Code, which shows any intention that the election to the office of chairman or secretary is to be limited to the four members of such board of trustees who are not councilmen, and since such statutes expressly provide that the secretary may be paid compensation for his duties, I am of the opinion that where a councilman of a city which has no charter, who is a member of the board of trustees of the firemen's pension or police relief fund, has been elected secretary of such board, he may receive such compensation therefor as may be fixed by said board, in addition to his salary as councilman.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4326.

APPROVAL, NOTES OF FOWLER TOWNSHIP RURAL SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$3,950.00.

COLUMBUS, OHIO, May 16, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

4327.

APPROVAL, NOTES OF CHAMPION RURAL SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$3,000.000.

COLUMBUS, OHIO, May 16, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.