

necessary to require the fiscal officers of the subdivisions to appear before the budget commission to discuss possible changes in the estimates, and that the duties of the deputy county auditor as a possible member of the budget commission would conflict with the duties of a city auditor, inasmuch as said city auditor might be required to appear before the budget commission to insist upon a proper share of funds for his subdivision.

It now is appropriate to apply the reasoning of such opinion to the matter at hand. It is clear that the county treasurer is a member of the county budget commission. See section 5625-19, General Code. Under section 9, the deputy treasurer may act for the county treasurer on such commission. Section 5625-1d provides that the fiscal officer of a township is the township clerk. Hence, it is clear that there might be occasions when the township clerk, as fiscal officer of his township, would be called before the county budget commission on which he was, as deputy treasurer, acting in place of the county treasurer. In such a situation, he would under his duties as township clerk be required to insist upon a proper share of the revenue for his subdivision, and under his duties as acting county treasurer on the budget commission, be required to adjust the funds among the subdivisions in an unbiased manner. Obviously, there would be conflicting duties which would, under the common law test of incompatibility, render the office of township clerk-treasurer and position of deputy county treasurer incompatible.

In view of the foregoing, I am of the opinion that the clerk-treasurer of a township, while he is such, may not hold the position of deputy treasurer of a county.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

1023.

APPROVAL, CERTAIN RESERVOIR LAND LEASE TO LAND AT PORTAGE LAKES, FOR THE RIGHT TO OCCUPY AND USE FOR BOATHOUSE, DOCKLANDING AND WALKWAY PURPOSES—H. D. KIENZLE.

COLUMBUS, OHIO, July 11, 1933.

HON. EARL H. HANEFELD, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a recent communication from the chief of the bureau of inland lakes and parks in the division of conservation, submitting for my examination and approval a certain reservoir land lease in triplicate executed by the conservation commissioner, pursuant to the authority conferred upon him by section 471, General Code, to one H. D. Kienzle of Akron, Ohio. By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of six dollars payable in semi-annual installments, there is given and demised to the lessee above named the right to occupy and use for boathouse, docklanding and walkway purposes that portion of the water front and state land in the rear thereof that lies immediately in front of Lot No. 692 of the Cottage Grove Addition on the east shore of East Reservoir, Portage Lakes.

Upon examination of this lease, I find that the same has been properly executed by the conservation commissioner and by said lessee. I also find upon examination of the provisions of this lease and of the conditions and restrictions therein contained that the same are in conformity with statutory provisions relating to leases of this kind. I am accordingly approving this lease as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General

1024.

DISAPPROVAL, TWO LEASES TO MIAMI AND ERIE CANAL LANDS.

COLUMBUS, OHIO, July 11, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—Some time ago you submitted for my examination and approval two certain canal land leases executed by you as superintendent of public works, and as director of this department, by which there were leased and demised to the respective lessees therein named certain parcels of Miami and Erie Canal lands which had theretofore been abandoned for canal and hydraulic purposes by Amended Substitute Senate Bill No. 194 (DeArmond Act), passed April 9, 1931, and which became effective on the 5th day of August, 1931.

One of the leases above referred to is executed to the division of conservation of the department of agriculture and the same grants to said division the right to occupy and use for the propagation of fish a certain parcel of abandoned Miami and Erie Canal lands in the city of Piqua, which is more particularly described therein. The other lease referred to is one to W. A. Hull of Defiance, Ohio. This lease permits said lessee to occupy and use for recreational purposes a certain parcel of land in the city of Defiance.

Apparently, the prime purpose of the legislation in the enactment of the DeArmond Act, above referred to, was that such portions of the Miami and Erie Canal as might be designated by the state highway director for the purpose should be used in the construction of a public highway. To this end, the act provided that the director of highways within a certain time prescribed in the act should make a preliminary highway location survey of the lands of this canal for the purpose of determining what part or parcels of such canal lands might be needed for highway purposes. Section 13 of this act provides that lands not reserved by the highway director for highway purposes may be leased to any city, village or other political subdivision or to a municipal park board for public park purposes; while more pertinent, perhaps, to the question presented with respect to the leases here in question, section 19 of said act provides that at the end of two years from the date at which this act becomes effective, any portion of said abandoned Miami and Erie Canal land that has not been designated by the director of highways as necessary for state highway improvements under the terms of this act, or has not been leased for public park purposes, to any of the parties authorized to make application to lease portions of