

sioners in Vol. _____, at page _____, and under the date of the _____ day of _____, 192_____.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 192_____.

President of the Board of County
Commissioners of -----
County, Ohio.

(SEAL)

Clerk
Secretary ex-officio of the Board of
County Commissioners of -----
-----County, Ohio.

NOTE: If the County Auditor is Secretary ex-officio of the Board of County Commissioners, the Auditor's seal should be affixed.

The following is to be placed on the back of form:

----- County
----- Twp.
----- State
Highway No.-----

Form -----To be used by County
Commissioners in approving maps, plans,
etc., for and requesting the Directors
of Highways to proceed with the work,
where the commissioners are cooperating
with the State Highway Department in
widening paved portion of state road to
a width greater than 18 feet.

Received in the Department of Highways
by mail (at the hands of)

this _____ day of _____, 192_____

(Signature of person actually receiving
same.)

Respectfully,
EDWARD C. TURNER,
Attorney General.

2671.

BONDS—YEARLY LIMIT FOR MUNICIPALITY—MAY NOT ISSUE NOTES
IN ANTICIPATION OF SALE FOLLOWING CALENDAR YEAR.

SYLLABUS:

When a municipality has reached its maximum limitations in the issuance of bonds for the calendar year 1928 and thereafter takes action to authorize bonds to be issued in the following calendar year, such municipality may not legally issue notes during the calendar year of 1928 in anticipation of the sale of said bonds.

COLUMBUS, OHIO, October 5, 1928.

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

GENTLEMEN:—Acknowledgment is made of your communication which reads:

“The first paragraph of Section 2293-13, G. C., 112 O. L. 369, reads:

“The net indebtedness of any subdivision shall be the difference between the par value of the outstanding and unpaid bonds and notes of the subdivision and the amount held in the sinking fund and other indebtedness retirement funds for their redemption. An indebtedness shall not be deemed to have been created or incurred until the delivery of the bonds under contract of sale.”

Section 2293-14, G. C., 112 O. L. 369, provides that the net indebtedness created, or incurred, by a municipal corporation without a vote of the electors shall never exceed one (1%) per cent of the tax value of all property in the municipality.

Section 2293-18, G. C., reads:

“If at the effective date of this act any of the limitations of Sections 2293-14, 2293-15, 2293-16 or 2293-17 hereof are exceeded in any subdivision, such subdivision so long as such excess exists may in any calendar year issue bonds falling within the class covered by said limitations in an amount equal to a sum not exceeding nine-tenths of the amount by which the net indebtedness on bonds of such class has been reduced during the said calendar year; provided that the total bonds issued in any year under the provisions of this section shall in no case exceed an amount equal to amount of bonds which may be issued within said limitation.”

The bonded debt of the city of _____, without a vote of the electors, was over the one (1%) per cent limitation at the effective date of the uniform bond Act, is still, and will be for some years in excess of such limitation.

Bonds have been issued during the current calendar year in the amount of nine-tenths (9/10) of the amount by which the net debt has been reduced during said calendar year.

Section 2293-25, G. C., provides that notes may be issued in anticipation of the sale of bonds, and the council of the city of _____ has passed an ordinance declaring the necessity for a bond issue, to be dated and sold in March, 1929, and has authorized notes to be issued at this date in anticipation of the sale of these bonds.

Since these bonds could not be issued in the current calendar year within the limitations of Section 2293-18, G. C., may notes be issued at this date in anticipation of the sale of bonds in March, 1929, at which time the probable receipt of the February settlement of taxes from the County Auditor, for bond retirement, would permit bond issues in the amount of nine-tenths (9/10) of such amount received, and would permit the issue of the bonds in question?”

From your statement the city under consideration has issued the maximum amount of bonds as provided for under Section 2293-18, General Code, which section is quoted in your communication. It is clear that in view of this section and Section 2293-14,

General Code, these bonds may not be legally issued within the calendar year of 1928. A perusal of the sections last mentioned, together with the entire Uniform Bond Act will disclose a definite purpose in the mind of the Legislature in said enactments to limit indebtedness that may be incurred by a municipality in any one calendar year.

Section 2293-25, General Code, to which you refer, provides:

"Whenever the taxing authority of a subdivision has legal authority to, and desires to issue bonds without vote of the people, it shall pass a resolution or ordinance declaring the necessity of such bond issue, its purpose and amount. In such resolution or ordinance the taxing authority shall determine, and in any case where an issue of bonds has been approved by a vote of the people, the taxing authority shall by ordinance or resolution determine, whether notes shall be issued in anticipation of the issue of bonds, and, if so, the amount of such anticipatory notes, not to exceed the amount of the bond issue, the rate of interest, the date of such notes, and their maturity, not to exceed two years. Such notes shall be redeemable at any interest period. A resolution or ordinance providing for the issue of notes in anticipation of the issue of bonds shall provide for the levy of a tax during the year or years which such notes run, not less than that which would have been levied if bonds had been issued without the prior issue of such notes."

Assuming, without deciding, that the council has authority to take preliminary steps in 1928, looking toward an issuance of bonds in 1929, it must be concluded that notes may not be issued during the year 1928 in anticipation of the sale thereof. This conclusion must be correct because the sections heretofore referred to limit the "net indebtedness" which a municipality may incur in a given calendar year and the definition of "net indebtedness" as set forth in Section 2293-13, supra, includes "notes". If a municipality may issue such notes the maximum limitations of the act as to the amount of indebtedness that may be incurred in any calendar year are nullified. It is my opinion that no such absurd results were intended.

You are, therefore, specifically advised that when a municipality has reached its maximum limitations in the issuance of bonds for the calendar year of 1928 and thereafter takes action to authorize bonds to be issued in the following calendar year, such municipality may not legally issue notes during the calendar year of 1928 in anticipation of the sale of said bonds.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2672.

DITCH—ASSESSMENT MADE WITHOUT NOTICE TO PROPERTY OWNER
—NO AUTHORITY FOR COUNTY COMMISSIONERS TO REDUCE
SAID ASSESSMENT.

SYLLABUS:

A board of county commissioners, in Ohio, is unauthorized to reduce a ditch assessment standing charged upon the tax duplicate of the county on account of an irregularity claimed to exist by reason of failure to give notice of the apportionment of assessment.