

938

NOTES—WHERE SCHOOL BOARD BORROWS MONEY AND ISSUES NOTES—NOTES MAY FALL DUE ON OR AFTER CLOSE OF FISCAL YEAR—MAY LEGALLY PAY INTEREST ON MONEY FOR PERIOD NOT TO EXCEED SIX MONTHS—SECTION 2293-4 G. C.

## SYLLABUS:

Where a school board borrows money and issues notes pursuant to Section 2293-4, General Code, said board may legally pay interest on said money for a period not to exceed six months, irrespective of whether the notes fall due on or after the close of the fiscal year.

Columbus, Ohio, September 1, 1949

Hon. Stanley N. Husted, Prosecuting Attorney  
Clark County, Springfield, Ohio

Dear Sir:

This will acknowledge receipt of your request for my opinion which reads as follows:

“I hereby request your opinion with respect to the following question:

“Under Ohio General Code 2293-4, local school boards may borrow money and issue notes, in anticipation of the collection of current revenues in and for any fiscal year, the aggregate of said notes not to exceed one half the amount estimated to be received from the next ensuing settlement of taxes for such fiscal year as estimated by the budget commission. The sums so anticipated shall be deemed appropriated for the payment of such notes at maturity. The notes shall not run for a longer period than six months.

“Where a local school board on July 23, 1948, borrows money within the legal limits of Section 2293-4 in anticipation of the August and October settlements, may the board legally pay interest on such borrowed money from December 31, 1948, to the date of maturity?

“An auditor of the Bureau of Inspection and Supervision of Public Offices proposes to make a finding against the lending institution and the district for all interest paid on such borrowed money after December 31, 1948, on the basis that interest can

not run beyond December 31st of the year in which the money is borrowed.

“Is this limitation imposed by General Code 2293-4?”

Your communication indicates that the notes were issued pursuant to that part of Section 2293-4 of the General Code, which reads as follows:

“In anticipation of the collection of current revenues in and for any fiscal year, the taxing authority of any subdivision may borrow money and issue notes therefor, but the aggregate of such loans shall not exceed one-half of the amount estimated to be received from the next ensuing settlement of taxes for such fiscal year as estimated by the budget commission, other than taxes to be received for the payment of debt charges, and all advances, but whenever a partial, semi-annual or final tax settlement is delayed, such borrowing authority may be exceeded and money borrowed in anticipation of the receipt of taxes for debt charges to the extent necessary to meet such debt charges but not in excess of such estimated receipts, less all advances. The sums so anticipated shall be deemed appropriated for the payment of such notes at maturity. The notes shall not run for a longer period than six months and the proceeds therefrom shall be used only for the purposes for which the anticipated taxes were levied, collected and appropriated. No subdivision shall borrow money or issue certificates in anticipation of such taxes before January first of the year of such tax receipts. \* \* \*”

The provision of the foregoing section that “the note shall not run for a longer period than six months” is clear and unambiguous. The section contains no provision to the effect that such notes must be paid within the fiscal year, nor does it contain any provision to the effect that in the event the entire one-half of the estimated revenue was borrowed, only one-half the actual tax receipts must be appropriated, but, on the contrary, provides that the sum so anticipated shall be deemed appropriated for the payment of such notes at maturity. It necessarily follows that such sums of money become encumbered upon the issuance of such notes.

The question which you present indicates that such notes were issued July 23, 1948. The maximum maturity date provided by law is six months. It, therefore, follows that the latest date upon which such notes could become due would be January 23, 1949.

In view of the foregoing, it is, therefore, my opinion that where a school board borrows money and issues notes pursuant to Section 2293-4,

General Code, said board may legally pay interest on said money for a period not to exceed six months, irrespective of whether the notes fall due on or after the close of the fiscal year.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.