

3236.

COUNTY ROAD—WHERE COUNTY COMMISSIONERS LEVY TAX AGAINST PROPERTY OF A TOWNSHIP TO PAY THE TOWNSHIP'S SHARE AND IT IS IMPOSSIBLE TO MAKE SUCH LEVY SUCH COST COULD NOT BE CONSIDERED AS AN ACCOUNT PAYABLE UNDER PROVISIONS OF HOUSE BILL NO. 527.

## SYLLABUS:

*In cases where the county commissioners are authorized under Sec. 6927 of the General Code to levy a tax against the property of a township for the purpose of paying the township's share of the construction of a county road, and it is impossible to make such a levy by reason of other preferred levies, such cost could not be considered as an account payable under the provision of House Bill No. 527 and be included in the deficit of such township.*

COLUMBUS, OHIO, April 1, 1926.

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

GENTLEMEN:—I am in receipt of your communication as follows:

"Under House Bill No. 527, passed January 15th, 1926, provision is made for the funding of deficits in the various funds except the sinking funds of the townships. Under section 6927, General Code, the county commissioners are authorized to levy a tax against the property of the township for the purpose of paying the township's share of the construction of a county road. In some instances it is impossible to levy a tax under this section sufficient to pay the township's share by reason of preferred tax levies for other purposes.

Question: In such cases may the amount of the share of the township for the construction of a county road be considered as an account payable under the provisions of House Bill 527 and be included in the deficit of such township?"

House Bill No. 527 provides for the refunding of deficiencies of taxing districts, and in the statement made to the Auditor of State provision is made for showing in detail the outstanding indebtedness of the several funds of said taxing district, whether represented by certificates of indebtedness, accounts payable or otherwise. Your question is whether there may be included under "accounts payable" the amount of the township's share for the construction of a county road for which the county commissioners are authorized to levy a tax under section 6927.

Section 6927 of the General Code provides as follows:

"For the purpose of providing by taxation a fund for the payment of the proportion of the compensation, damages, costs and expenses of such improvement to be paid by the township or townships interested, in which such road may be in whole or part situated, the county commissioners are hereby authorized to levy a tax not exceeding three mills in any one year upon all the taxable property of such township or townships. Such levy shall be in addition to all other levies authorized by law for township purposes, and subject only to the limitation on the combined maximum rate for all taxes now in force."

Section 6929 of the General Code authorizes the county commissioners to issue bonds in anticipation of the collection of taxes under section 6927. The bonds authorized are county bonds and become general obligations of the county and the county commissioners must provide a tax levy for any deficiency in the payment or collection of any of the township taxes.

In the event that a township has such sinking fund levies or other bonds which would preclude the county commissioners from levying the tax authorized under section 6927 of the General Code in any year, it is not believed that this would prevent the county commissioners from making such levy at any time when the tax duplicate would sustain the levy authorized under section 6927. As the township's share of cost and expense of such road is to be paid by a tax levy, which levy is in the future, it is not believed that such share of the costs and expense can be considered in the light of an account payable for which credit must be given under House Bill No. 527.

Of course the township's share of the cost and expense of such improvement could be paid primarily from the road funds of the township and in event that there are no funds available for such purpose the county commissioners are authorized to make the levy under section 6927 of the General Code. If this is a county project and if no funds are available for the payment of the township's share of such improvement it is believed that such obligation is an account payable only in the method provided by section 6927 of the General Code and in that event there can be no deficit as contemplated under House Bill No. 527.

You are therefore advised that in cases where the county commissioners are authorized under section 6927 of the General Code to levy a tax against the property of a township for the purpose of paying the township's share of the construction of a county road and it is impossible to make such a levy by reason of other preferred levies that such cost could not be considered as an account payable under the provisions of House Bill No. 527 and be included in the deficit of such township.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

3237.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND VERNON REDDING AND ASSOCIATES, OF MANSFIELD, OHIO, FOR ARCHITECTURAL SERVICES IN CONNECTION WITH REMODELING HOSPITAL AT OHIO STATE REFORMATORY, MANSFIELD, OHIO, AT EXPENDITURE OF \$975.00.

COLUMBUS, OHIO, April 1, 1926.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Highways and Public Works for and on behalf of the Ohio State Reformatory, and Vernon Redding and Associates, of Mansfield, Ohio. This contract covers architectural services in connection with remodeling hospital at Ohio State Reformatory, Mansfield, Ohio, and calls for an expenditure of \$975.00.