

2059

FIRE FIGHTING EQUIPMENT—PURCHASED ON DEFERRED PAYMENT PLAN—COST MAY NOT EXCEED \$10,000.00—SECTION 3298-54 G. C.

SYLLABUS:

The cost of fire fighting equipment purchased on the deferred payment plan in accordance with the provisions of Section 3298-54, General Code, may not exceed the sum of \$10,000.00.

Columbus, Ohio, July 21, 1947

Hon. Joel S. Rinefort, Prosecuting Attorney, Lucas County  
Toledo, Ohio

Dear Sir:

I have your recent letter requesting my opinion with reference to limitations in the purchase of fire department equipment on the four year installment plan, as provided in Section 3298-54, General Code.

Your letter recites that in March of this year you received a request from township trustees to approve legislation for the purchase of fire equipment in the sum of \$15,000.00, to be paid for within four years as provided for by the above section.

Your question is whether the purchase price is limited to the sum of \$10,000.00, or whether the indebtedness is limited to that amount.

Authority for the purchase of fire equipment by township trustees and fire districts is granted in Sections 3298-54, 3298-55 and 3298-56, General Code.

The pertinent parts of Section 3298-54, General Code, are:

“Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damages and accidents resulting therefrom and may, with the approval of specifications by the county prosecuting attorney, purchase or otherwise provide such fire apparatus, appliances, materials, fire hydrants and such water supply for fire fighting purposes as may seem to the trustees to be advisable, in which event they shall provide for the care and

maintenance thereof, and, for such purposes, may purchase, lease or construct and maintain necessary buildings; \* \* \*

The board of trustees of any township or fire district or districts created by them under the provisions of this act, may purchase the necessary fire fighting equipment for such township, fire district or districts and pay for the same over a period of four years. Such trustees shall be authorized to issue the notes of the township, fire district or districts, as the case may be, signed by the trustees and attested by the signature of the township clerk, and covering such deferred payments and payable at the times provided, which notes may bear interest not to exceed six per cent per annum, and shall not be subject to the provisions of Sections 2293-1 to 2293-37a, inclusive, of the General Code. The amount of such purchase shall not exceed ten thousand dollars covered by the issuance of notes payable over a period of four years. One-fourth of such purchase price shall be paid at the time of purchase. The remainder of the purchase price shall be covered by said notes maturing in two, three and four years respectively. Such notes shall be offered for sale on the open market or given to the vendor if no sale is made."

Section 3298-55, General Code is as follows:

"The trustees of the township are authorized to levy in any year or years a sufficient tax upon all taxable property in the township or in a fire district or districts, to provide protection against fire and to provide and maintain fire apparatus and appliances and buildings and sites therefor and sources of water supply and materials therefor, and the establishment and maintenance of lines of fire alarm telegraph and the payment of permanent, part-time or volunteer fire fighting companies to operate same."

Section 3298-56, General Code, is as follows:

"No bonds shall be issued by township trustees for the purpose of providing fire apparatus, appliances, buildings or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph or the payment of permanent, part-time or volunteer fire fighting companies to operate the same unless approved by vote of the people in a township, a fire district or districts in the manner provided by law; and in no event in an amount exceeding \$20,000.00."

Section 3298-54, General Code, in the first quoted part, contains authority to purchase or otherwise provide fire apparatus and necessary

accessories thereto and there is no limitation on the amount of such equipment which may be thus purchased for cash.

Authority is granted in Section 3298-55, General Code, to levy a sufficient tax to purchase such fire equipment for cash.

Section 3298-56, General Code, provides for a bond issue for the purpose of purchasing fire equipment. Such bond issue must be approved by a vote of the people in the township or fire district or districts in the manner provided in the Uniform Bond Act and is limited to the sum of twenty thousand dollars.

The authority for the purchase of fire equipment has been effective in its present form since the last amendment of these sections, which became effective August 19, 1941. The 96th General Assembly did not change the wording of Section 3298-54, General Code, as it then read, but added a paragraph to the section, which is the last paragraph of that section quoted above. The newly amended section became effective August 23, 1945.

Under the statutes as they existed prior to the last amendment of Section 3298-54, General Code, there was ample power to purchase fire equipment. However, if a township or fire district did not have sufficient cash to purchase such equipment and was in need thereof, it was necessary to use the cumbersome and expensive method of a bond issue. Apparently the General Assembly felt that this should not be necessary where a small amount of equipment was to be purchased. In order to allow township trustees or fire districts to purchase fire equipment in such cases, the amendment to Section 3298-54, General Code, was enacted, placing a limitation of ten thousand dollars thereon. The method of payment was prescribed, one-fourth in cash and the balance in notes over a period of four years. If more than ten thousand dollars worth of equipment was to be purchased, then the trustees or fire districts would be obliged to resort to a bond issue.

It seems to me that a strained construction would be necessary to say that fire equipment could be purchased for fifteen thousand dollars, paying five thousand dollars in cash and the balance secured by three notes. The cash payment would not represent one-fourth of the purchase price, but would be one-third of the purchase price. Similarly, other examples would result in other fractional parts of the purchase price.

In view of the above, it is my opinion, and you are advised, that the phrases "amount of such purchase," "purchase price" and "one-fourth of such price" refer to the sum of "ten thousand dollars" and that, therefore, purchases made on the deferred plan shall not exceed ten thousand dollars.

Respectfully,

HUGH S. JENKINS,  
Attorney General.