

4289.

## APPROVAL, PETITION CONTAINING PROPOSED LAW AND SUMMARY OF THE SAME.

COLUMBUS, OHIO, May 24, 1935.

MR. FRANK M. WILCOX, *Attorney-at-Law*, 304 Lorain Co. Bank Bldg., Elyria, Ohio.

DEAR SIR:—You have submitted for my examination a written petition signed by one hundred qualified electors of this state, containing a law to be initiated and a summary of the same under Section 4785-175, General Code.

The proposed law reads as follows:

“Section 1.—It shall be unlawful for any firm, corporation, copartnership or association, either foreign or domestic, to establish, open, maintain or operate any branch or affiliated store within this state without having obtained a license to do so from the secretary of state of the State of Ohio, as hereinafter provided.

Section 2.—The term ‘branch or affiliated store’ as used in this act shall mean and include any store or stores, or any mercantile establishment or establishments in excess of one which are owned, operated, maintained or controlled by the same person, firm, corporation, copartnership or association, either domestic or foreign, in which goods, wares or merchandise of any kind are sold or offered for sale.

Section 3.—Any person, firm, corporation, association or copartnership desiring to operate, maintain, open, or establish any stores in excess of one in this state shall apply to the secretary of state for a license so to do. The application for a license shall be made on a form which shall be prescribed and furnished by the secretary of state, and shall set forth the name of the owner, manager, trustee, lessee, receiver or other person desiring such license; the name of such store; the location, including street number of such store; and such other facts as the secretary of state may require. An application shall be made for each such store in excess of one which such applicant desires to operate, maintain, open or establish, but the respective stores for which the applicant desires to secure licenses may all be listed on one such application blank. Each such application shall be accompanied by a filing fee of fifty cents and by the license fee as prescribed in Section 6 of this act.

Section 4.—As soon as practicable after the receipt of any such application the secretary of state shall carefully examine the same to ascertain whether it is in proper form and contains the necessary and requisite information. If upon examination the secretary of state shall find that such application is not in proper form and does not contain the necessary and requisite information he shall return the same to the applicant for correction. If the application is found to be satisfactory and the license fees herein prescribed have been paid, the secretary of state shall issue to the applicant a license for each branch or affiliated store for which an application for a license shall have been made. Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued.

Section 5.—All licenses so issued shall expire on the 31st day of December following the date upon which they are issued. On or before the first day of

January of each year, every person, firm, copartnership or association having a license shall apply to the secretary of state for a renewal thereof for the year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the secretary of state. No license shall lapse prior to the 15th day of January of the year next following the year for which such license was issued, and if an application is not made for and a renewal license issued on or before the 15th day of January, next ensuing, the former license shall lapse and become null and void and the secretary of state shall thereupon notify such delinquent license holder thereof by registered mail. Each such application for a renewal license shall be accompanied by a filing fee of fifty cents, and by the license fee as prescribed in Section 6 of this act.

Section 6.—Every person, firm, corporation, copartnership or association, either foreign or domestic, who establishes, opens, maintains or operates within this state under the same general management or control two or more stores where goods, wares or merchandise of any kind are sold, or offered for sale, shall be deemed a branch or affiliated store operator, and for such stores established, maintained or operated in excess of one shall pay the license fees hereinafter prescribed for the privilege of establishing, opening, maintaining or operating each such store or mercantile establishment in excess of one. The license fees herein prescribed shall, except as herein provided be paid annually, and shall be in addition to the filing fee prescribed in Section 3, and in addition to all other taxes now in effect.

\$5.00	for the first place of business.
\$10.00	for the second place of business.
\$20.00	for the third place of business.
\$40.00	for the fourth place of business.
\$80.00	for the fifth place of business.
\$160.00	for the sixth place of business.
\$320.00	for the seventh place of business.
\$640.00	for the eighth place of business.
\$1280.00	for the ninth place of business.
\$2500.00	for the tenth place of business.

and \$2500.00 for each succeeding place of business within the confines of the State of Ohio.

Section 7.—Every license issued prior to the 15th day of July of the year in which such license shall expire shall be charged for at the full rate and every license issued on or after the 15th day of July of the year in which the same shall expire shall be charged for at one-half of the full rate.

Section 8.—No branch or affiliated store license shall be assignable or transferable.

Section 9.—The provisions of this act shall be construed to apply to every person, firm, corporation, copartnership or association, either domestic or foreign, which is controlled or held with others by a majority stock ownership or ultimately controlled or directed by one management or association of ultimate management.

Section 10.—Any and all expenses incurred by the secretary of state in the administration of this act shall be paid out of the funds accruing from the fees imposed by and collected under the provisions of this act. All money collected under the provisions of this act shall be paid into the state treasury,

monthly, by the secretary of state, and credited to the general fund, and appropriated from the general fund for the following purposes:

(a) Payment of the necessary expenses incurred in the administration of the act.

(b) The balance to be added and shall constitute a part of the general fund for the elementary schools.

Section 11.—Any firm, corporation, copartnership or association who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned in the county jail not more than three months, or both, and each and every day that such violation shall continue shall constitute a separate and distinct offense.

Section 12.—If any section, provision or clause of this act shall be declared invalid, such invalidity shall not be construed to affect the portions of the act not so held invalid."

The summary thereof reads as follows:

"The purpose of this Petition is to secure legislation whereby all branch or affiliated stores shall be licensed in proportion to the number of stores operated by any one organization within the limits of the State of Ohio, beginning with \$5.00 annual license fee for the first place of business and in doubling the rate for each successive place of business to the tenth place of business, whose license fee shall be \$2500.00; and thereafter the annual license fee shall be \$2500.00 per store, in excess of nine stores, which amount shall be the basis of the annual license fee for each store in excess of nine stores belonging to such organization and operated within the confines of the State of Ohio regardless of the number of store units. And each such branch or affiliated store shall be licensed before it shall be lawful for it to operate. Any such license issued prior to July 15th of any year shall be subject to the payment of the license fee for the full calendar year. Any such license issued on and after July 15th shall be subject to the payment of one-half the license fee for the calendar year. All licenses shall expire December 31st following the date upon which they are issued, but shall not lapse prior to January 15th of the year next following the year for which such license was issued. No such license shall be assignable or transferable. All money collected under this Act shall be paid into the State treasury, monthly, by the secretary of state and credited to the general fund and appropriated from the general fund to pay the administrative costs of this act and the balance shall constitute a part of the general fund for the elementary schools. Any violation of this Act shall be a misdemeanor punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or imprisonment in the county jail not more than three months or both. If any section, provision or clause of this act shall be declared invalid, such invalidity shall not be construed to affect the portions of the act not so held invalid."

I am of the opinion that the foregoing is a fair and truthful statement of said proposed law and accordingly submit for uses provided by law the following certification:

"I, John W. Bricker, Attorney General of the State of Ohio, pursuant to the duties imposed upon me by the provisions of Section 4785-175, General

Code, hereby certify that the foregoing summary is a fair and truthful statement of the proposed law submitted to me. JOHN W. BRICKER, Attorney General."

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

4290.

**SURVEYOR—DECREASE IN TAX DUPLICATE DOES NOT AUTOMATICALLY DECREASE SALARY OF SURVEYOR.**

**SYLLABUS:**

*A decrease in the valuation of the aggregate of the tax duplicate for real estate and personal property of a county from the valuation of such duplicate as it existed on the twentieth day of December, 1915, does not automatically decrease the item of the salary of the county surveyor which is based upon the valuation of such tax duplicate.*

COLUMBUS, OHIO, May 25, 1935.

HON. JOHN M. KIRACOFE, *Prosecuting Attorney, Eaton, Ohio.*

DEAR SIR:—Your communication of recent date reads as follows:

“Sec. 7181 G. C.

The County Surveyor shall give his entire time and attention to the duties of his office and shall receive an annual salary to be computed as follows:

One dollar per mile for each full mile of the first one thousand miles of the public roads of the county; and in addition thereto forty dollars per thousand for each full one thousand of the first fifteen thousand of the population of the county as shown by the federal census next preceding his election, thirty dollars per thousand for each full one thousand of the second fifteen thousand of the population of the county, twenty-five dollars per thousand for each full one thousand of the third fifteen thousand of the population of the county, fifteen dollars per thousand for each full one thousand of the fourth fifteen thousand of the population of the county, and five dollars per thousand for each full one thousand of the population in the county in excess of sixty thousand; and also in each county in which on the twentieth day of December, 1915, the aggregate of the tax duplicate for real estate and personal property was twenty-five million dollars, or more, the sum of fifty dollars for each full one million dollars, not more than fifteen, by which such tax duplicate exceeded twenty-five million dollars, ten dollars for each full one million dollars, not more than sixty, by which such tax duplicate exceeded forty million dollars and five dollars for each full one million dollars by which such tax duplicate exceeded one hundred million dollars; provided, however, \* \* \* ’

Does a decrease in the tax duplicate automatically decrease the salary of the surveyor in the same manner as a decrease in population?

In other words, would a decrease of the tax duplicate from forty-five mil-