

Note from the Attorney General's Office:

1951 Op. Att'y Gen. No. 51-0247 was overruled by 1958 Op. Att'y Gen. No. 58-2880.

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EQUIPMENT — ACQUISITION AND INSTALLATION — COUNTY COURT HOUSE — TWO-WAY RADIO SYSTEM, PHOTOSTAT MACHINE, BLUE PRINT MACHINE, TAX BILLING MACHINE—ESTIMATED LIFE OR USEFULNESS FIVE YEARS OR MORE — “IMPROVEMENT” — SECTION 2293-16 G. C.—BOND ISSUE FOR PURPOSE SUBJECT TO STATUTORY LIMITATIONS.

SYLLABUS:

The acquisition and installation in a county court house of equipment, including a two-way radio system, a photostat machine, a blue-print machine and a tax billing machine, all with an estimated life or usefulness of five years or more, constitute an “improvement” within the meaning of Section 2293-16, General Code; and a bond issue for such purpose is subject to the limitations therein provided.

Columbus, Ohio, April 16, 1951

Hon. John S. Phillips, Prosecuting Attorney
Ross County, Chillicothe, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The Board of County Commissioners of Ross County, Ohio, proposed to issue bonds in the amount of \$16,000.00, for the purpose of making certain permanent improvements to the county court house. No bonds have been issued within the past five years involving this building.

“In addition, the Board of County Commissioners also proposes to issue bonds for the purchase and installation of equipment to be used in various offices in the court house, namely, two-way radio system, photostat recording machine, blue print machine and Burroughs tax writing machine, at a total cost of approximately \$19,000.00. The county auditor has certified the estimated life and maximum maturity of bonds issued for such equipment as ten (10) years.

“On the basis of the foregoing information, your opinion is requested in regard to the following questions:

“(a) Would the issuance of bonds for such equipment be affected by the limitations contained in Section 2293-16 of the Ohio General Code, as an ‘improvement’ of a county building?

“(b) If the limitations contained in Section 2293-16 of the Ohio General Code do not apply to the issuance of bonds for such equipment, may the Board of County Commissioners authorize a single bond issue for the improvement of the court house and the purchase and installation therein of the equipment, in the approximate amount of \$35,000.00?”

Section 2293-16, General Code, a part of the Uniform Bond Act, prescribes certain limitations on the indebtedness which may be incurred by a county. One proviso of this section reads as follows:

“* * * Provided that, except by vote of the electors, bonds shall not be issued by any county in an amount exceeding twenty thousand dollars in any period of five years, for the acquisition, construction, improvement, enlargement or extension of any one county building, including the acquisition of a site therefor, but this limitation shall not apply to buildings for a district consisting of two or more counties.”

Certain of the terms used in the Uniform Bond Act are defined in Section 2293-1, General Code, one such definition reading as follows:

“This act shall be known as ‘the uniform bond act.’ The following definitions shall be applied to the terms used in this act:
* * *

“(e) ‘Permanent improvement’ or ‘improvement’ shall mean any property, asset or improvement with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for highway purposes shall be held to include the resurfacing but not the ordinary repair of highways.
* * *”

This definition is sufficiently broad, in my opinion, to include personal property as well as realty, and to include items of equipment which are not in any sense affixed to real estate so as to fall into the classification of fixtures, provided, of course, that such items have an estimated life or usefulness of five years or more.

Since your inquiry states that the equipment listed herein has been estimated by the county auditor to have an estimated life of ten years, and since under the provisions of Section 2293-2, General Code, his estimate is binding on the county taxing authority, I conclude that the equipment listed in your inquiry falls within the category of “improvement” as that

term is used in Section 2293-16, General Code. From this it follows that the issuance of bonds for the purchase of such equipment would be subject to the debt limitations set forth in that section.

In view of my conclusion with reference to your first question, it becomes unnecessary to consider the second.

Accordingly, in specific answer to your inquiry, it is my opinion that the acquisition and installation in a county court house of equipment, including a two-way radio system, a photostat machine, a blue-print machine and a tax billing machine, all with an estimated life or usefulness of five years or more, constitute an "improvement" within the meaning of Section 2293-16, General Code; and a bond issue for such purpose is subject to the limitations therein provided.

Respectfully,

C. WILLIAM O'NEILL

Attorney General