

inter-county highway or main market road within their township; provided, however, that in the case of a county road the plans and specifications for the proposed improvement shall first be submitted to the county commissioners of the county and shall receive their approval and in the case of an inter-county highway or main market road such plans and specifications shall first be submitted to the state highway commissioner and shall receive his approval. The township trustees shall have power to widen, straighten or change the direction of any part of a road in connection with the proceedings for its improvement."

Accordingly, township trustees still have the power to improve state roads, provided that the plans and specifications for such improvement are first submitted to the director of highways and his approval thereof secured. The language of the ballot, as I assume it to be, and the ensuing tax levy were broad enough to authorize the township trustees to utilize the fund for the payment of the township's portion of the maintenance, repair and improvement of any inter-county highway within the township, and I believe that an improvement of such a highway, undertaken under Section 3298-1 et seq. of the General Code, could be made from the unexpended balance here under consideration.

I am accordingly of the opinion that, in view of the additional facts you have submitted to me, the unexpended balance of the special levy may be used in the improvement of any state road located within the township, but such balance may not be used upon any township or county road. Such unexpended balance cannot be transferred to any other purpose because of the restrictions now imposed by law, a discussion of which is found in my prior opinion and which need not be here repeated.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2404.

TAX AND TAXATION—AUTHORITY OF TOWNSHIP TRUSTEES TO
SUBMIT TO ELECTORS TAX LEVY FOR GENERAL CONSTRUCTION
AND REPAIR OF ROADS—FOR SPECIFIC ROAD IMPROVEMENT.

SYLLABUS:

1. *Township trustees are not authorized by the terms of paragraph 7 of Section 5625-15, General Code, to submit to the electors of the township the question of making a tax levy over and above fifteen mills for the general construction, reconstruction, resurfacing and repair of roads.*

2. *Under authority of paragraph 6 of Section 5625-15, General Code, township trustees may, however, submit to the electors of the township the question of levying a tax in excess of the fifteen mill limitation for the purpose of constructing a specific road improvement, if the estimated life of such improvement is five years or more.*

COLUMBUS, OHIO, July 30, 1928.

HON. J. R. POLLOCK, *Prosecuting Attorney, Defiance, Ohio.*

DEAR SIR:—Permit me to acknowledge receipt of your request for my opinion as follows:

"The trustees of Adams Township, Defiance County, Ohio, desire to levy a tax in addition to the fifteen mill limitation for the purpose of constructing a road within said township.

The question was presented to me for consideration as to whether or not said township trustees might pass a resolution as required by virtue of Section 5625-15 of the General Code of Ohio, and submit the proposition to a vote of the people of said township.

Paragraph seven of Section 5625-15 of the General Code provides that a levy may be made in addition to the fifteen mill limit 'for the general construction, reconstruction, resurfacing and repairing of roads and bridges in counties.'

Were it not for the last two words of this paragraph there would seem to be no doubt but that said trustees might proceed as provided by said Section 5625-15 of the General Code of Ohio.

Question: Are said trustees prohibited from levying said tax by reason of the insertion of the words 'in counties' at the end of said paragraph seven of said Section 5625-15?"

Section 5625-15 of the General Code, in so far as it relates to the question presented, reads as follows:

"The taxing authority of any subdivision at any time prior to September 15th, in any year, by vote of two-thirds of all the members of said body, may declare by resolution that the amount of taxes which may be raised within the fifteen mill limitation will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the following purposes:

* * *

6. For the construction or acquisition of any specific permanent improvement or class of improvements which the taxing authority of said subdivision may include in a single bond issue.

7. For the general construction, reconstruction, resurfacing and repair of roads and bridges in counties.

* * *

You inquire whether or not township trustees may, when authorized by a vote of the people, levy a tax outside the fifteen mill limitation "for the purpose of constructing a road in the township" under the provisions of paragraph 7 of said section with relates to "*general construction * * * of roads * * * in counties.*"

It is my opinion that the language of said paragraph 7 provides only for an additional levy, when properly authorized, for the *general* construction, reconstruction, resurfacing and repair of roads by counties, and township trustees are not authorized to make such a levy for the purpose of *general* construction or repair of township roads. Any other construction would make the words "in counties" meaningless. You will note that this paragraph relates to the *general* construction, while you are inquiring about "constructing a road within" a township.

In this connection I call your attention to the sixth paragraph of Section 5625-15, General Code, which provides that they may act under said section for the construction of any specific improvement which the taxing authority may include in a single bond issue. To determine what permanent improvements may be included in a single bond issue, we must refer to the Uniform Bond Act, especially to Section 2293-1, General Code, which, in so far as it relates to this question, provides 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 interest therein, and including reconstructions, enlargements and extensions thereon 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.

* * *"

You will note that a permanent improvement is defined *inter alia* to mean any improvement with an estimated life or usefulness of five years or more, and that while reconstruction of a highway includes "resurfacing," ordinary repair of highways is not included. I assume that the improvement contemplated is not a repair but a construction of a specific road, as you state in your inquiry. Therefore, if the estimated life or usefulness of the proposed improvement is five years or more, the township trustees may act under Section 5625-15, paragraph 6, and pass the necessary legislation to submit the question to a vote of the people.

Specifically answering your question, it is my opinion that:

1. Township trustees are not authorized by the terms of paragraph 7 of Section 5625-15, General Code, to submit to the electors of the township the question of making a tax levy over and above fifteen mills for the general construction, reconstruction, resurfacing and repair of roads.

2. Under authority of paragraph 6 of Section 5625-15, General Code, township trustees may, however, submit to the electors of the township the question of levying a tax in excess of the fifteen mill limitation for the purpose of constructing a specific road improvement, if the estimated life of such improvement is five years or more.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2405.

EMPLOYMENT AGENCY—PRIVATE.

SYLLABUS:

The law relative to private employment agencies discussed.

COLUMBUS, OHIO, July 30, 1928.

HON. HERMAN R. WITTER, *Director, Department of Industrial Relations, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion as follows:

"It has been brought to our attention that the so-called free employment office operated by the B. A. M. Company, * * * Building, Cleveland, Ohio, has been using their office to secure applicants from fee charging agencies.