

Section 3923, General Code, provides that when such bonds are not taken by the persons named in section 3922, the bonds shall be advertised and sold at public sale. In the two sections above quoted, there is no authorization for the city to offer such obligations to the persons in charge of the general fund of such municipality. The ordinance, therefore, would seem to be invalid for the reason that it conflicts with the sections relating to the sale of obligations by municipalities.

You are therefore advised that an ordinance providing for the investing of the general funds of a city, other than sinking funds, in the obligations of such city, is invalid.

Respectfully,
C. C. CRABBE,
Attorney General.

2779.

AUTHORITY OF COUNTY COMMISSIONERS TO PURCHASE MOTOR
VEHICLES UNDER SECTION 2412-1 G. C. DISCUSSED.

SYLLABUS:

1. *By amended senate bill No. 44, county commissioners may purchase motor vehicles, without the approval of the common pleas court, for the sheriff and sanitary engineer or their employes, to be used subject to the regulation of such officials.*
2. *Under this act, county commissioners may purchase motor vehicles, with the approval of the common pleas court, for their own use or for the use of any department under their direct control. When purchased, such vehicles shall be for the use of the county commissioners or other county officials, such use to be subject to the regulation of the county commissioners.*

COLUMBUS, OHIO, Sept. 12, 1925.

HON. OTHO L. MCKINNEY, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—I am in receipt of your communication, as follows:

“We desire an opinion upon a certain phrase as used in section 2412-1, General Code, as amended in senate bill No. 44 at the last general assembly. In your opinion, what departments are under the direct control of the board of county commissioners for which the commissioners would be authorized to purchase motor vehicles?”

“The first paragraph of the section authorizes the purchase of motor vehicles for the sheriff or sanitary engineer. Section 7200, General Code, authorizes the commissioners to purchase motor vehicles for the use of the county engineer, all of which is specific enough, but the board of county commissioners of this county have asked how far they may go in furnishing automobiles for other departments and offices of the county, hence the desire for an opinion on the broadness of the term ‘department under their direct control.’”

Section 2412-1, General Code, as amended in senate bill No. 44, provides as follows:

"That, whenever the board of county commissioners deems it necessary to purchase a motor vehicle or vehicles for the use of the sheriff or sanitary engineer, their deputies or necessary employes they shall adopt a resolution setting forth the necessity for such purchase, together with a statement of the kind and number of vehicles required and the estimated cost of each such vehicle.

"Upon the adoption of said resolution the board of county commissioners may purchase said vehicles for the use and purposes of the aforesaid persons or any of them. If the board of county commissioners deem it necessary to purchase a motor vehicle or vehicles for their use or for the use of any department under their direct control, application shall be made by them to a judge of the court of common pleas of said county, who, if upon the hearing thereof finds it necessary and expedient to purchase such vehicle or vehicles shall so order, fixing the number and kind of such vehicles, and the amount to be expended for each."

This section provides for the purchasing of motor vehicles by the county commissioners for the use of the sheriff or the sanitary engineer, their deputies and necessary employes. The second paragraph of said section provides that when the county commissioners deem it necessary, they may purchase motor vehicles for their use or for the use of any department under their direct control, upon application to and approval by the judge of the court of common pleas.

Section 2412-1, General Code, prior to the amendment in senate bill No. 44, provided for the purchase of automobiles for the use of the county commissioners and the sheriff, upon application to the court of common pleas.

Section 2412-2, General Code, prior to the amendment, provided that the use of such vehicles should be under such regulations as the county commissioners provided. Section 2412-2 as amended, provides in part as follows:

"When purchased, such vehicle or vehicles shall be for the use of the county commissioners, or other county officials, such use to be subject to the regulation of the county commissioners. Such vehicles shall be used by each such officials or deputies and employes in lieu of hiring vehicles, in the manner otherwise provided by law unless the county vehicles are not available for such use."

Construing section 2412-2 with section 2412-1 as they are amended, we come to the conclusion that the board of county commissioners may purchase motor vehicles for the sheriff and sanitary engineer without the approval of the common pleas court, and may, with the approval of the common pleas court, purchase vehicles for their use or for the use of any department under their direct control. It can not be said that other county officers are under the direct control of the county commissioners, such as to include them within the statute. By "departments under the direct control of the county commissioners" it is believed is meant such as the county infirmary, the county hospital, the county tuberculosis hospital and other similar departments or institutions. Such vehicles, when purchased for such departments, may be used for other county officials, subject to the regulation of the county commissioners. This has application to the motor vehicles purchased for the use of the county commissioners or the use of any department under their direct control, and is not applicable to the motor vehicles purchased by the county commissioners for the use of the sheriff or sanitary engineer.

Taking both sections together, it is believed that we may arrive at the following conclusions:

1. That the county commissioners may purchase motor vehicles for the use of the sheriff and sanitary engineer or their deputies, such vehicles to be for the use and subject to the regulation of the person for whom purchased;

2. That the county commissioners may purchase motor vehicles for their own use or for the use of any department under their direct control, and such vehicles may be used by other county officials, subject to the regulation of the county commissioners.

Respectfully,

C. C. CRABBE,
Attorney General.

2780.

A CITY MAY NOT INCORPORATE INTO AN ORDINANCE A PROVISION
TAKING AWAY THE CERTIFICATE TO OPERATE A MOTOR VE-
HICLE—SECTION 12607-1 G. C. CONSTRUED.

SYLLABUS:

A city cannot incorporate into an ordinance a provision taking away the certificate to operate a motor vehicle granted by the state, though a provision prohibiting the owner of such certificate from operating a motor vehicle within the city limits would be valid.

COLUMBUS, OHIO, Sept. 12, 1925.

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

GENTLEMEN:—In your letter of August 12, 1925, you ask the following question:

“May a city incorporate the provisions of section 12607-1 of the General Code into an ordinance as has been done with the Crabbe Act?”

Section 12607-1, General Code, provides that a person convicted of violating the *state* speed laws, etc., may be prohibited from operating a motor vehicle and also may have his certificate of registration suspended.

The syllabus of the case of *Heppel vs. The City of Columbus*, 106 Ohio St. 107, is as follows:

“By virtue of authority conferred upon municipalities by section 3, article XVIII of the Ohio constitution, to adopt and enforce within their limits such police regulations as are not in conflict with general laws, municipalities may enact and enforce ordinances, the provisions of which are not inconsistent with the general laws of the state, prohibiting the manufacture, possession or sale of intoxicating liquor for beverage purposes and the keeping of a place therein where intoxicating liquors are manufactured, sold, furnished, etc., for beverage purposes.”

The court also says, on page 110 of this opinion:

“It is true that no such authority has been specifically conferred upon the municipalities of the state, but broad and comprehensive power has been delegated to municipalities by the provisions of section 3, article XVIII of