

3102.

APPROVAL, NOTES OF CANAL WINCHESTER VILLAGE SCHOOL DISTRICT, FRANKLIN COUNTY—\$150,000.00.

COLUMBUS, OHIO, January 5, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3103.

BOND ISSUE.—INFORMATION REQUIRED ON BALLOT DISCUSSED.

SYLLABUS:

Under the provisions of Section 2293-23, General Code, (112 Ohio Laws 374) it is mandatory that the detailed information therein required, be placed on the ballot submitted to the voters at election. The failure to so give the detailed information, renders the election, as it pertains to the Bond Issue, invalid.

COLUMBUS, OHIO, January 5, 1929.

HON. EUGENE S. OWEN, *Prosecuting Attorney, Delaware, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion, as follows:

"The undersigned, as Prosecuting Attorney of Delaware County, Ohio, submits this question to your Department in behalf of the Board of Trustees of Oxford Township, Delaware County, Ohio.

It appears that this Board was desirous of issuing bonds with which to purchase fire apparatus for the township, and passed a resolution declaring the necessity therefor and instructed the Clerk to give notice of the Election on November 6th, 1928, and transmitted to the Clerk of the Deputy Supervisors of Elections of this County, a copy of said resolution, together with a ballot form prescribed by Section 2293-23, General Code, Ohio Laws, Vol. 112, p. 374, 'Shall bonds be issued by the Trustees of Oxford Township for the purpose of purchasing fire apparatus in the sum of \$5,312.50, and a levy of taxes be made outside of the 15 mill limitation, estimated by the County Auditor to average .9 mills for a maximum period of five years, to pay the principal and interest of such bonds.'

For the Bond Issue

Against the Bond Issue.

The Board of Elections prepared and printed a ballot in this form, omitting all the matter above enclosed in quotation marks.

For Bond Issue for Fire Apparatus.

Against Bond Issue for Fire Apparatus.

At the election, more than fifty-five per cent of the electors voting, voted "Yes".

This transcript was submitted to me for an opinion, and I am of the opinion that the ballot used was fatally defective, in that it did not comply with the above stated Sections.

I am now asking your Department for its opinion on the sufficiency of the ballot form."

Section 2293-23, General Code of Ohio, provides as follows:

"The form of the ballot to be used at such election shall be as follows:

"Shall bonds be issued by the (HERE INSERT NAME OF SUB-DIVISION) for the purpose of (HERE INSERT PURPOSE OF BOND ISSUE) in the sum of (HERE INSERT AMOUNT OF BOND ISSUE) and a levy of taxes be made outside of the fifteen mill limitation, estimated by the county auditor to average (HERE INSERT NUMBER OF MILLS) mills for a maximum period of (HERE INSERT LONGEST MATURITY) years to pay the principal and interest of such bonds."

	For the Bond Issue.
	Against the Bond Issue.

If fifty-five per cent of those voting upon the proposition vote in favor thereof, the taxing authority of such subdivision shall have authority to proceed under Sections 2293-25 to 2293-29, inclusive, with the issue of such bonds and the levy of a tax outside of the fifteen mill limitation, sufficient in amount to pay the interest on and retire such bonds at maturity."

Your letter stated that after the certificate had been properly made to the Board, the Board omitted certain information from the ballot. Section 2293-23, supra, specifically provides what information is to be placed upon the ballot for the information of the voters. This Section not only provides for the form of the ballot, but specifically mentions certain other information in detail. This was not provided.

Your letter also stated that more than fifty-five per cent of the electors voted "Yes". If the detailed information required by the Section had been placed on the ballot, the vote might, or might not, have been the same.

Answering your question specifically, I am inclined to agree with your conclusion that the ballot, as submitted to the voters, was materially defective as to form and substance in omitting the plain requirements of the statute.

It must therefore follow that the election thereon was invalid.

Respectfully,

EDWARD C. TURNER,
Attorney General.