

lishing such system. It is believed unnecessary to discuss the various sections of the General Code which relate to the construction of sewers.

The foregoing clearly indicating that lands may be properly acquired for such purposes, it seems to be obvious that a municipality may construct a sewer, the outlet of which is required to be constructed on lands which lie outside of the municipal limits.

Respectfully,
GILBERT BETTMAN,
Attorney General.

782.

COUNCILMEN—NON-CHARTER CITY—RATE OF COMPENSATION.

SYLLABUS:

1. *Council of a non-charter city has no authority to fix the salary of its members otherwise than in accordance with Section 4209, General Code.*

2. *Members of council in a non-charter city, which, according to the last preceding federal census had a population of 27,824, may not legally receive compensation at the rate of \$300 per year.*

COLUMBUS, OHIO, August 21, 1929.

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

GENTLEMEN:—This will acknowledge receipt of your recent communication, which reads as follows:

“Section 4209, G. C., reads:—

‘The compensation of members of council, if any is fixed, shall be in accordance with the time actually employed in the discharge of their official duties, but shall not exceed one hundred and fifty dollars per year each, in cities having a population according to the last preceding federal census, of twenty-five thousand or less. For every thirty thousand additional inhabitants so determined, such compensation may be, but shall not exceed, an additional one hundred dollars per year, each, but the salary shall not exceed twelve hundred dollars per annum, and shall be paid semi-monthly.’

Question. May members of the council, in a city which, at the last federal census, had a population of 27,824, legally receive compensation at the rate of three hundred dollars each per annum, provided for by ordinance?

Said city has not adopted a charter.”

A city which has not adopted a charter by authority of Section 7, of Article 18, of the Constitution of Ohio, is controlled by general law, with respect to the organization of its government, the distribution of its powers and the agencies to carry into effect those powers and the determination of the duties and compensation of officers. The Legislature has by general law, Section 4212, General Code, authorized the council of a city, except as otherwise provided, to determine the number of officers, clerks and employes in each department of city government, and to fix by ordinance or resolution their respective salaries and compensations. When the salary or compensation of an officer of the city is fixed by statute, the council thereof cannot lawfully change it.

The compensation of members of council is not fixed by statute but a maximum

compensation is fixed by Section 4209, General Code, quoted in your letter, and council, although empowered to allow any amount it sees fit within the maximum so fixed is not authorized to allow a greater amount than that fixed by the statute.

Applying the statute in a city which, according to the last preceding federal census, had a population of 27,824, it will readily be seen that the members of council in said city may not legally receive compensation at the rate of \$300 per year.

Respectfully,

GILBERT BETTMAN,
Attorney General.

783.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE B. & T. COMPANY, COLUMBUS, OHIO, FOR CONSTRUCTION OF FLOORING FOR PHARMACY AND BACTERIOLOGY BUILDING, OHIO STATE UNIVERSITY, COLUMBUS, OHIO, AT AN EXPENDITURE OF \$7,590.00—SURETY BOND EXECUTED BY THE GLOBE INDEMNITY COMPANY.

COLUMBUS, OHIO, August 23, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works for the Board of Trustees of the Ohio State University, and The B. and T. Company, of Columbus, Ohio. This contract covers the construction and completion of flooring contract, Items 25, 26 and 27, inclusive, as set forth in the specifications for "Pharmacy and Bacteriology Building," and calls for an expenditure of seven thousand five hundred ninety dollars (\$7,590.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also furnished evidence to the effect that the consent of the Controlling Board to the expenditure has been obtained, as required by Section 11 of House Bill No. 510 of the 88th General Assembly. In addition you have submitted a contract bond, upon which the Globe Indemnity Company, of Newark, N. J., appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law, and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation act have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you together with all other data submitted in this connection.

Respectfully,

GILBERT BETTMAN,
Attorney General.