

2715.

APPROVAL—BONDS, CITY OF NEW BOSTON, SCIOTO COUNTY, OHIO, \$10,000.00, DATED FEBRUARY 15, 1938.

COLUMBUS, OHIO, July 16, 1938.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of City of New Boston, Scioto County, Ohio, \$10,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise all of an issue of flood defense bonds dated February 15, 1938, bearing interest at the rate of $3\frac{1}{2}\%$ per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said city.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2716.

BUREAU OF SUPPORT—DEPARTMENT OF PUBLIC WELFARE—MAY RECOGNIZE AVERAGE MONETARY EVALUATION OF CLOTHING GIVEN INMATE OF STATE BENEVOLENT INSTITUTION BY DEDUCTING AVERAGE VALUE FROM MAXIMUM AMOUNT CHARGEABLE UNDER SECTION 1815-2 G. C. AGAINST COUNTY LIABLE FOR MAINTENANCE.

SYLLABUS:

The Bureau of Support, when authorized by the Department of Public Welfare, may recognize an average monetary evaluation of clothing given to an inmate of a state benevolent institution by deducting the esti-

mated average value of such clothing from the maximum amount chargeable under the provisions of Section 1815-2, General Code, against the county which is liable for the maintenance of the inmate receiving the contribution.

COLUMBUS, OHIO, July 18, 1938.

HON. JOSEPH T. FERGUSON, *Auditor of State, Columbus, Ohio.*

DEAR SIR: You recently requested my opinion on a question contained in your communication of recent date, which reads as follows:

"Under authority of Sec. 1815-2, General Code, the support bureau of the Department of Welfare charges the various counties five dollars and fifty cents (\$5.50) per week for the support of each inmate in an institution for the feeble-minded provided the person liable for the support of the inmate pays nothing. If the person primarily liable for support pays less than five dollars and fifty cents (\$5.50) per week, the support bureau charges the county from which the inmate was committed the difference between five dollars and fifty cents (\$5.50) and the amount paid by the person liable.

If all the clothing requested by the Superintendent of the Institution for Feeble-minded is furnished by a relative or friend of the inmate, the support bureau credits the county from which the inmate was committed in the amount of twelve dollars (\$12.00) each six months. That is, the amount due for support is computed on the inmate's account card at five dollars and fifty cents (\$5.50) per week for the six months period (with deductions for the time inmate is absent), and from this amount a credit of twelve dollars (\$12.00) is allowed, where the clothing has been furnished as above noted. The net amount due for support is then billed to the county.

By what authority, if any, does the support bureau credit a county in the amount of twelve dollars (\$12.00) for each six months for the support of an inmate in an institution for the Feeble-minded in the case where all the inmate's clothing is furnished by a guardian, relative or friend?"

The determination of the question which you present herein is controlled by the provisions of Sections 1815 and 1815-2, General Code, which read as follows:

Section 1815, General Code:

“All persons now inmates of, or hereafter admitted into, a benevolent institution, except as otherwise provided in this chapter, and except as otherwise provided in chapters relating to particular institutions, shall be maintained at the expense of the state. They shall be neatly and comfortably clothed and their traveling and incidental expenses paid by themselves or those having them in charge.”

Section 1815-2, General Code:

“The maximum rate for the support of inmates of such institutions shall be five dollars and fifty cents per week. Less amounts may be accepted by the board when conditions warrant such action, or when offered by persons not liable.”

Section 1815, General Code, designates who shall bear the expense of clothing the inmates of the various benevolent institutions of the state. The meaning of this section was clarified in Opinions of the Attorney General, 1927, Volume I, Page 383, in which it was concluded that the several counties of the state are liable for and may be compelled to reimburse the state for the expense of clothing such inmates.

Section 1815-2, General Code, establishes the maximum amount that may be charged to those counties which are liable under the provisions of Section 1815, General Code. The charge which may thus be made is limited to the amount of Five Dollars and Fifty Cents (\$5.50) a week for each inmate.

According to the provisions of Section 1815-2, “Less amounts may be accepted by the board when conditions warrant such action * * *.” The “board” referred to herein undoubtedly means the Ohio Board of Administration which, at the time of the enactment of this section, functioned as the governing body of the state benevolent institutions. However, on April 26, 1921, the provisions of Sections 154-26 and 154-57, General Code, became effective, abolishing the Ohio Board of Administration and vesting in the Department of Public Welfare all powers which formerly had been exercised by the Board of Administration. Thus the Department of Welfare acquired the power to determine what conditions warranted the acceptance of less than \$5.50 a week for the support of any inmate of a state benevolent institution.

I assume that the accounting procedure which you describe as utilized by the Bureau of Support is pursuant to authorization coming from the head of the Department of Welfare, of which the Bu-

reau of Support is a division. Accordingly, it has been the practice of the Bureau of Support to debit each county, chargeable under the provisions of Section 1815, with the maximum amount established by the terms of Section 1815-2. Since it is within the authority of the Department of Welfare, through the Bureau of Support, to charge any amount less than the maximum thus established when conditions are deemed to warrant such action, it is certainly within the authority of the Bureau of Support, when authorized, to recognize contributions of clothing as a condition warranting the reduction of the cost of maintaining the inmate receiving such contributions and to credit the county with the amount of the estimated average value of such contributions of clothing.

It is, therefore, my opinion that the Bureau of Support, when authorized by the Department of Welfare, may recognize an average monetary evaluation of clothing given to an inmate of a state benevolent institution by deducting the estimated average value of such clothing from the maximum amount chargeable under the provisions of Section 1815-2, General Code, against the county which is liable for the maintenance of the inmate receiving the contribution.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2717.

APPROVAL—BONDS, TOLEDO CITY SCHOOL DISTRICT,
LUCAS COUNTY, OHIO, \$7,000.00, PART OF ISSUE
DATED FEBRUARY 1, 1921.

COLUMBUS, OHIO, July 18, 1938.

*Retirement Board, State Public School Employes Retirement System,
Columbus, Ohio.*

GENTLEMEN :

RE: Bonds of Toledo City School Dist., Lucas
County, Ohio, \$7,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above school district dated February 1, 1921. The transcript relative to this issue was approved by this office in an opinion rendered to the Teachers Retirement System under date of July 13, 1935, being Opinion No. 4417.