

supposed violation of the principles of justice and common reason, if it be within the bounds of constitutional power. The courts have nothing whatever to do with the policy, the justice, or the wisdom of a statute so long as it cannot be said that it contravenes some constitutional provision."

In view of the foregoing and in specific answer to your questions, it is my opinion that:

1. A general or city health district is a separate and distinct political subdivision and employes of such districts are not generally in the category of state employes.

2. District health commissioners, public health nurses and clerks of general or city health districts which receive state funds pursuant to appropriation by the General Assembly in accordance with and under the circumstances provided by Section 1261-39, General Code, are "state employes" within the meaning of the term as used in the State Employes' Retirement Act during such years as such districts receive such state aid.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

1329.

APPROVAL — CONTRACT BY AND BETWEEN THE W. E. CALDWELL COMPANY OF LOUISVILLE, KENTUCKY, AND THE STATE OF OHIO FOR ERECTION OF A STEEL WATER TOWER, ETC., AT AN EXPENDITURE OF \$5,426.00.

COLUMBUS, OHIO, October 19, 1937.

HON. MARGARET M. ALLMAN, *Director, Department of Public Welfare, Columbus, Ohio.*

DEAR MADAM: You have submitted for my approval a contract by and between W. E. Caldwell Company of Louisville, Ky., and the State of Ohio, acting by the Department of Public Welfare, Margaret M. Allman, Director, for the erection of a Steel Water Tower, plus Alternate A and Alternate B, which contract calls for a total expenditure of five thousand four hundred and twenty-six dollars (\$5,426.00).

You have also submitted encumbrance estimate No. 28, a form of proposal signed by the W. E. Caldwell Company by the Secretary thereof,

the estimate of cost, a letter to the Auditor of State showing the proper documents to be on file in said office, the notice to bidders, the proof of publication, the tabulation of bids, the contract bond, signed by the New York Casualty Company and properly countersigned by an agent in the State of Ohio, a power of attorney for the signer, a certificate of the Secretary of State showing that W. E. Caldwell Company has qualified as a foreign corporation, the certificate of premium payment of the contractor to the Industrial Commission of Ohio, and the Controlling Board release of \$6,000.00.

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 pertinent papers submitted in this connection.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1330.

PRESIDENT OF CITY COUNCIL MAY VOTE FOR SALARY OF FIREMEN AND POLICEMEN—MANDAMUS WILL NOT LIE.

SYLLABUS:

1. *The president of a city council has authority under Section 4272, General Code, to cast the deciding vote in the case of a tie upon a measure designated as an ordinance to increase the salaries of the regular policemen and regular firemen of such city.*

2. *Under such circumstances, the president of council may not be compelled by mandamus or otherwise to cast the deciding vote should he desire not to do so.*

COLUMBUS, OHIO, October 20, 1937.

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

GENTLEMEN: Your letter of recent date is as follows:

“We are inclosing herewith letter received from the City Solicitor of the City of Sidney, Ohio, and salary ordinance passed by the council of that city.

The Solicitor’s letter presents a certain statement of fact, and asks the following questions: