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FAIRS — SECTION 9887 G. C. AUTHORIZES BOARD OF COUNTY COMMISSIONERS IN ANY COUNTY IN WHICH THERE IS AN AGRICULTURAL SOCIETY TO ACQUIRE AND HOLD TITLE TO REAL ESTATE—HOLD FAIRS AND ERECT SUITABLE BUILDINGS—DOES NOT PROVIDE EXCLUSIVE METHOD TO FINANCE PURCHASE OF REAL ESTATE OR ERECT BUILDINGS—BONDS MAY BE ISSUED BY COUNTY COMMISSIONERS — SECTION 2293-1 ET SEQ., G. C. — OPINIONS ATTORNEY GENERAL, 1940, PAGE 1077, OPINION 3135, APPROVED AND FOLLOWED.

SYLLABUS:

The provisions of Section 9887, General Code, which authorize the board of county commissioners in any county in which there is a duly organized county agricultural society, to acquire and hold title to real estate upon which to hold fairs and to erect suitable buildings thereon does not provide an exclusive method of financing the purchase of such real estate or the erection of such buildings and bonds for such purposes may be issued by such county commissioners pursuant to Section 2293-1 et seq., General Code. (1940 Opinions of the Attorney General, No. 3135, page 1077, approved and followed.)

Columbus, Ohio, November 22, 1950

Hon. Webb D. Tomb, Prosecuting Attorney
Seneca County, Tiffin, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The grounds upon which the Seneca County fair is held, together with a part of the buildings thereon, are owned by a private corporation, which has offered to sell the property to the county commissioners at a fixed price in excess of \$10,000.00.

The fair itself is conducted by the Seneca County Agricultural Society, a separate entity from the corporation which owns the grounds.

As a part of their deliberations regarding this proposed purchase, the Commissioners have requested me to obtain your opinion upon the following questions:

1. If the Commissioners decide to submit the question of the proposed purchase to the electors of the county, must they do so pursuant to the provisions of Section 9887 of the Ohio General Code; or may they submit a proposed bond issue for the purpose of purchasing the fairgrounds pursuant to Section 2293-2?

2. In the event that you decide the question must be submitted pursuant to Section 9887, does it follow that the action to be authorized would be a levy for one year to provide the full purchase price, or could bonds be issued and sold and a levy extending over a period of a number of years be made to retire the bonds?"

Section 9887, General Code, reads as follows:

"In any county in which there is a duly organized county agricultural society, the board of county commissioners is authorized to purchase or lease, for a term of not less than twenty years, real estate whereon to hold fairs under the management and control of the county agricultural society, and may erect thereon suitable buildings and otherwise improve the same.

In counties wherein there is a county agricultural society which has purchased, or leased, real estate for a term of not less than twenty years, a site whereon to hold fairs or where the title to such site is vested in fee in the county, the county commissioners, if they think it is for the best interest of the county, and society, may erect or repair buildings or otherwise improve such site and pay the rental thereof, or contribute to or pay any other form of indebtedness of said society. The commissioners are authorized to appropriate from the general fund such an amount as they deem necessary for any of said purposes. Provided, however, that if the amount appropriated to be expended in the purchase of such real estate or in the erection of buildings or other improvements or payments of rent or other forms of indebtedness of said society shall exceed twenty thousand dollars, in any one year such expenditure shall not be made unless the question of a levy of the tax therefor is submitted to the qualified electors of the county at a general election, a notice of which, specifying the amount to be levied, has been given at least thirty days previous to such election, in one or more newspapers published and of general circulation in the county. The county

commissioners shall pass a resolution authorizing the submission of the question to the electors and certify their action to the board of elections of the county who shall prepare and furnish the necessary ballots and other supplies. The form of the ballots cast at such election shall be:

‘Agricultural tax—Yes.’

‘Agricultural tax—No.’

If fifty-five per cent of the vote cast be in favor of such tax, it may be levied and collected as other taxes.

Provided, further that the requirement that the question of a tax levy be submitted to the electors shall not be construed to apply where the funds to be expended have been received as reparation for damage to the fair grounds caused by use thereof for military purposes.”

The foregoing statute authorizes and empowers the board of county commissioners of any county in which there is a duly organized county agricultural society to acquire and hold title to real estate for the purpose of holding fairs thereon and to erect suitable buildings thereon. Although it permits the payment of the purchase price of the real estate and the cost of erecting the buildings from the general fund, or from the proceeds of a voted levy when the amount to be expended exceeds twenty thousand dollars in any one year, there is no provision therein or elsewhere in the General Code that prohibits the board of county commissioners from invoking the provisions of the Uniform Bond Act, Section 2293-1 et seq., General Code. In other words, Section 9887 does not provide an exclusive method of financing the purchase of such real estate or the erection of buildings thereon for county fairground purposes. That the provisions of the Uniform Bond Act would be applicable is evident from Sections 2293-1 and 2293-2, General Code, wherein the latter provides in part that the taxing authority of any subdivision shall have power to issue the bonds of such subdivision for the purpose of acquiring or constructing any permanent improvement which such subdivision is authorized to construct and the former defines the term “taxing authority” to include, in the case of a county, the county commissioners, the term “subdivision” as including any county and the term “permanent improvement” as any property, asset or improvement with an estimated life or usefulness of five years or more, including land and interests therein. The same reasoning was applied in an opinion of one of my predecessors in office in Opinion No. 3135, Opinions of the Attorney General for the year 1940, wherein a similar question involving said Section 9887, as then enacted, was under consideration.

Subsequent amendments to said Section 9887, since the rendition of the above opinion have been minor and would not affect the logic upon which said opinion is based. These amendments have resulted in the addition of the last paragraph of said section, the change of the percentage of affirmative votes required for passage of the tax levy from sixty-five percent to fifty-five percent of the votes cast, the change of the words "some general election" in the third sentence of the second paragraph to "a general election" and the change of the words "ten thousand dollars" to "twenty thousand dollars" in the same sentence. This latter change is specifically called to your attention for the reason that you have indicated in your request that the offer of sale is at a price in excess of \$10,000 but have not indicated that it is in excess of \$20,000. If, then, such price were to be less than \$20,000 such purchase could be made from general revenue funds, if available, under the provisions of said Section 9887, General Code.

Having concluded that the county commissioners may submit a proposed bond issue for the purpose of purchasing a fairgrounds site pursuant to Section 2293-1 et seq., General Code, it becomes unnecessary to answer your second question.

Respectfully,

HERBERT S. DUFFY,
Attorney General.