

It will be noted that by the provisions of this section if on a ticket there is no candidate or candidates for a designated office, a blank space equal to the space that would be occupied by such name or names if they were printed thereon, shall be left on the ticket. By way of specific answer to the fourth question, therefore, I am of the opinion that if there are no declarations of candidacy for nominations for said judgeships, two blank lines should be left on each of the ballots voted at said primary election; and that said ballots should otherwise be prepared so as to conform to law.

In this connection it may be well to note Section 4984-1, General Code, which provides that no nomination in such case shall be made for an office by writing in the name of the candidate unless the name of the person attempted to be nominated and receiving the highest number of votes for said office shall have been written on at least eight per cent of all the ballots which have been voted at such primary election.

With respect to the fifth question submitted in the communication from the board of deputy state supervisors and inspectors of elections it may be observed that no question is presented in said communication with respect to the power and authority of the Governor on and after the effective date of the act providing for these additional judges to make appointments of qualified persons to such offices, and no opinion is here expressed with respect to this question. It may be observed, however, that nothing that the Governor may do in this matter can in any way affect the conclusions reached in this opinion with respect to the nomination and election of the judges who are to be elected for the four-year terms beginning January 1, 1930. If it should appear that the Governor is authorized to make appointments to said office on and after the effective date of the act creating said additional offices, and such appointments are made by him, this might perhaps authorize the election of judges for the short terms in said offices existing from and after the election date in November, 1929, to January 1, 1930. No opinion, however, is intended to be expressed on this question.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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489.

BOND—COUNTY OFFICERS—PREMIUMS DUE AFTER JULY 18, 1927,  
PAID BY COMMISSIONERS—HOUSE BILL NO. 40, 87TH GENERAL  
ASSEMBLY NOT RETROACTIVE.

SYLLABUS:

1. *County commissioners were unauthorized to pay refunds upon the premiums on bonds of county officers which were paid prior to the effective date of the law authorizing the payment of premiums of surety bonds for county officers as enacted in 112 Ohio Laws.*

2. *In the event that such officers had new bonds executed after the effective date of said law for the unexpired portion of the term of such officers, which said bonds were duly approved by the county commissioners, the premium thereon should be paid by the county commissioners.*

3. *In those cases in which bonds had been executed prior to the enactment of the law, and premiums accrued thereon after the effective date of said law, for a period of the official term to run after the effective date of said law, such renewals should*

*be paid by the county commissioners to the insurance companies to which the premium is due.*

COLUMBUS, OHIO, June 7, 1929.

HON. ALBERT T. STROUP, *Prosecuting Attorney, Van Wert, Ohio.*

DEAR SIR:—Your recent communication reads:

“I desire your opinion and interpretation of House Bill No. 40, passed by the 87th General Assembly of Ohio, March 28, 1927, and found in 112 Ohio Laws, page 111.

Question 1. When this act went into effect, our county commissioners felt that from that day on it was their duty to pay for all of the county officials' bonds.

Of course, at the time this act took effect, practically all of the county officials had already purchased their bonds for a year or more ahead, and paid for them out of their own pockets. The county commissioners then made a refund to these officials proportionately for the period from the day the act took effect forward for the length of time they had already paid. Was this act upon the part of the commissioners lawful?

Question 2. When the time for which the refund was made on these bonds had expired and a new premium was due on these same bonds, the commissioners paid this premium direct to the insurance companies. Was this act lawful?”

House Bill No. 40, as enacted by the 87th General Assembly, to which you refer, Amended Sections 2399, 2559, 2633, 2751, 2784, 2868 and 2911 of the General Code, which sections relate to the giving of bond by county officers. Without mentioning the specific officers affected by such sections, it may be stated that each of said sections provides, in substance, that the expense or premium for such bond shall be paid by the county commissioners and charged to the general fund of the county.

In this connection your attention is further directed to the provisions of Section 9573-1, which was enacted by the 87th General Assembly, 112 O. L. 135, which provides:

“The premium of any duly licensed surety company on the bond of any public officer, deputy or employe shall be allowed and paid by the state, county, township, municipality or other subdivision or board of education of which such person so giving such bond is such officer, deputy or employe.”

The sections above mentioned were under consideration in an opinion of my predecessor, found in Opinions of the Attorney General for 1927, Vol. II, page 1317. The syllabus of said opinion reads:

“1. A public officer who is required to give an official bond at or before the time he takes office may, during his term of office, file a new bond for the remaining portion of his term of office, which new bond must, of course, be approved by the officer or officers required by law to approve the same.

2. The amendments to the sections of the General Code contained in House Bill No. 40, passed by the 87th General Assembly, and the provisions of House Bill No. 33, 87th General Assembly, do not affect the salary of any officer.

3. The premium on any bond of any public officer, deputy or employe

signed by a licensed surety company, executed after House Bills Nos. 40 and 333 passed by the 87th General Assembly became effective shall be paid by the state, county, township, municipality, school district or other subdivision of which such person so giving such bond is an officer, deputy or other employe."

In the body of the opinion it is clearly pointed out that any officer may give a new bond, with the approval of the county commissioners, which would have the effect of releasing the original bond for the remainder of his term. The opinion also pointed out that if for any reason an officer had occasion to execute a new bond for the unexpired portion of the term, a surety bond could be executed and the expense or premium thereof should be paid by the commissioners or the proper officers of the subdivision of which such person was an officer. While the above legislation clearly authorizes the payment of a premium on bonds of county officers, by the county commissioners, it is not believed that the same is retroactive. In other words, such payment should properly be made after the law became effective, but there is no justification for the payment of obligations incurred by such officers in securing bonds prior to the effective date of said law.

As pointed out in the opinion above referred to, if, after the taking effect of the new act, the officer saw fit to give a new bond, which was approved by the county commissioners, the premium of the new bond covering the unexpired portion of his term should be paid by the county commissioners. I am further inclined to the view that any renewal premiums that became due after the law became effective should be paid by the commissioners. In effect, I do not see any distinction between paying the renewal premium on a bond already in existence and paying the premium on a new bond executed for the identical purpose.

Based upon the foregoing, and in specific answer to your inquiries, it is my opinion that:

1. County commissioners were unauthorized to pay refunds upon the premiums on bonds of county officers which were paid prior to the effective date of the law authorizing the payment of premiums of surety bonds for county officers as enacted in 112 Ohio Laws.

2. In the event that such officers had bonds executed new after the effective date of said law for the unexpired portion of the term of such officers, which said bonds were duly approved by the county commissioners, the premium thereon should be paid by the county commissioners.

3. In those cases in which bonds had been executed prior to the enactment of the law, and premiums accrued thereon after the effective date of said law, for a period of the official term to run after the effective date of said law, such renewals should be paid by the county commissioners to the insurance companies to which the premium is due.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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490.

MUNICIPALITY—WHEN ISSUANCE OF BONDS IN ANTICIPATION OF SPECIAL LEVY FOR CONSTRUCTING GAS MAINS PROHIBITED.

*SYLLABUS:*

*A village may not issue bonds in anticipation of the levy of special assessments,*