

sources of the bank from the total value of the shares of the bank as computed by the county auditor on the aggregate capital and surplus of the bank. In the amendment of section 5412, General Code, in the act above referred to, this provision for the deduction of the valuation of real estate of banks and other financial institutions separately taxed as such was repealed; and, in my opinion, the legislature in the enactment of the statutory provisions now found in Amended Senate Bill 323 relating to the taxation of financial institutions, dealers in intangibles and domestic insurance companies, has clearly manifested an intention to include the real estate of such companies as a part of their total assets in determining the value or amount of the stock, capital or capital and surplus to be taxed.

Inasmuch as the provisions of section 2 of article XII of the constitution still require a real property to be taxed by uniform rule, it is obvious that this construction of the statutory provisions above noted presents a serious constitutional question. However, it is no part of your duty or of mine to consider and decide questions of this kind; and as an administrative officer it will be your duty to compute the capital and surplus of domestic insurance companies by including therein the value of real estate owned by such companies even though such real estate is separately taxed as such.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4251.

CIVIL SERVICE COMMISSION—ESTABLISHING A DISTRICT COTERMINOUS WITH BOUNDARIES OF A COUNTY—COUNTY COMMISSIONERS MAY NOT PAY COMPENSATION OF PERSON IN CHARGE.

SYLLABUS:

Where the state civil service commission establishes a district, the boundaries of which are coterminous with the boundaries of a county, and places an assistant in charge of such district, as provided by section 486-20, General Code, the board of commissioners of said county has no authority to pay the compensation of such assistant or any part of the expenses of such office, but the only way in which the cost of such work can be paid by the county commissioners is where the local civil service commission of the largest municipality in such county is designated by the state commission, as its agent, for the purpose of carrying out the provisions of the civil service act, as provided by section 486-5, General Code.

COLUMBUS, OHIO, April 15, 1932.

The State Civil Service Commission, Columbus, Ohio.

GENTLEMEN:—I acknowledge receipt of your communication which reads as follows:

“Recently upon the request of the Hamilton County Commissioners, this Commission, acting under the provisions of Section 486-20, G. C., agreed to fix Hamilton County as a civil service district, and to place in charge of such district an assistant to the State Civil Service Commis-

sion, as provided therein, whose duties would consist of the conduct of all civil service affairs pertaining to the Hamilton County service.

The Civil Service Laws of Ohio require the State Civil Service Commission to administer such laws in the several counties of the state, but through lack of appropriation to this Commission effective administration cannot be accomplished. Accordingly, the Hamilton County Commissioners agreed to pay the salary of the above mentioned assistant, together with any other necessary expenditures in the establishment of this office in that county.

The question has been raised by the County Commissioners as to whether they would have the right to pay for the services rendered and the expenses incurred annually in that district under the above mentioned circumstances.

It is the desire of this Commission to establish this Cincinnati district at the earliest opportunity and for that reason would appreciate an early opinion."

Section 486-20, General Code, reads as follows:

"For the purpose of administration the state civil service commission may divide the state into civil service districts and establish an officer in each of such districts. The commission may place in charge of each such district an assistant whose duties and compensation shall be determined and fixed by the rules of the commission."

As stated in the Opinions of the Attorney General for 1917, page 960:

"The establishment of your districts is administrative merely for your own purposes; that is, for the purpose of examinations, investigations, etc., and is more for the convenience of the public than of the commission in order that the benefits of your administration may be brought nearer within reach of the general public."

The assistant provided for in this section would be an employe of the state and not of the district, and the boundaries of such district may or may not be coterminous with the boundaries of a county. In fact, it was evidently contemplated by the legislature that such districts would ordinarily comprise more than one county, for another statute, namely section 486-5, provides for assistance to the state commission in the carrying out of the provisions of the civil service act within the counties. Section 486-5 provides in part as follows:

"Each such person shall receive such compensation for each day actually and necessarily spent in the discharge of his duties as examiner or assistant as shall be determined by the commission; provided, however, that if any such examiner or assistant is in the official service of the state, or any political subdivision thereof, it shall be a part of his official duties to render such services in connection with such examination, without extra compensation; provided, however, that counties of the state in which are located municipalities having local civil service commissions the state civil service commission may designate the local commission of the largest municipality within such county as its agent, for the purpose of carrying out such provisions of this act within said counties, as the state civil service commission may designate from time to time; and such civil service commissioners shall each receive for this work such reasonable

compensation as the boards of county commissioners may determine, and the board of county commissioners of such county, during the time such arrangement shall continue, shall appropriate each year, to be paid out of the county treasury into the treasury of such municipality, a sum sufficient to meet the county's portion of the cost of the work as determined by the number of employes in such classified service."

It is also to be noted that this section expressly authorizes the county commissioners to pay the county's portion of the cost of the work, where a municipal civil service commission is designated as the agent of the state commission, while there is no express authority where districts are established under section 486-20, and I find no other statutory provision authorizing such expenditure.

The board of county commissioners, especially with reference to the financial affairs of the county, has only such authority as is given it by statute. *Jones, Auditor, vs. County Commissioners*, 57 O. S. 189; *Peter vs. Parkinson, Treasurer*, 83 O. S. 36.

I am of the opinion, therefore, that where the state civil service commission establishes a district, the boundaries of which are coterminous with the boundaries of a county, and places an assistant in charge of such district, as provided by section 486-20, General Code, the board of commissioners of said county has no authority to pay the compensation of such assistant or any part of the expenses of such office, but that the only way in which the cost of such work can be paid by the county commissioners is where the local civil service commission of the largest municipality in such county is designated by the state commission, as its agent, for the purpose of carrying out the provisions of the civil service act as provided by section 486-5, General Code.

However, section 486-5 also provides that "The commission may designate persons in or out of the official service of the state to serve as examiners or assistants under its direction." And after providing for compensation of examiners and assistants the same section says: "provided, however, that if any such examiner or assistant is in the official service of the state, or any political subdivision thereof, it shall be a part of his official duties to render such services in connection with such examination without extra compensation."

Under these provisions, I am of the view that it would be permissible for the commission, on occasions when it deems it necessary, to designate, with the approval of the proper county or other officials, some one who is a bona fide employe of the county or other political subdivision of the state to act temporarily as an assistant or examiner, who would so serve without extra compensation.

Respectfully,

GILBERT BETTMAN.

Attorney General.

4252.

APPROVAL, NOTES OF AKRON CITY SCHOOL DISTRICT, SUMMIT COUNTY, OHIO—\$155,000.00.

COLUMBUS, OHIO, April 18, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.