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BONDS—AGGREGATE ISSUED UNDER AM. S. B. NO. 4 OF 89th GENERAL ASSEMBLY, SPECIAL SESSION, AS AMENDED BY S. B. NO. 63 OF 90th GENERAL ASSEMBLY, MAY NOT EXCEED ONE-TENTH OF ONE PER CENT OF GENERAL TAX LIST AND DUPLICATE OF SUBDIVISION—MUST BE WITHIN LIMITATIONS OF UNIFORM BOND ACT.

**SYLLABUS:**

*The aggregate amount of bonds which may be issued during the years 1932, 1933 and 1934 under Section 7 of Amended Senate Bill No. 4 of the 89th General Assembly, special session, as amended by Senate Bill No. 63 of the 90th General Assembly, may not exceed one-tenth of one per cent of the general tax list and duplicate of a subdivision issuing such bonds, and such indebtedness must further be within the limitations as to the unvoted net indebtedness provided by the Uniform Bond Act.*

COLUMBUS, OHIO, June 17, 1933.

*The Tax Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—Your letter of recent date is as follows:

“We hereby request your formal opinion relative to the construction to be placed on section 7 of S.B. 63, enacted by the 90th General Assembly as an emergency measure.

The question has been raised that Section 7, as it now reads, limits the issuance of bonds thereunder to an amount not exceeding in the aggregate 1/10 of one per cent of the general tax list and duplicate of the subdivision making the application, for the three years 1932, 1933 and 1934.

It has been our construction that the 1/10 of one per cent limit, referred separately to each and every one of the years in question, and therefore a subdivision operating under said section might issue bonds not exceeding 1/10 of one percent of the general tax list and duplicate of the subdivision making the application in each and every one of the years in question.

May we have your opinion?”

Amended Senate Bill No. 4 passed at the first special session of the 89th General Assembly as an emergency measure March 31, 1932, and filed in the office of the Secretary of State April 6, 1932, authorized in section 3 thereof the issuance of bonds in anticipation of the collection of a public utility excise tax imposed by that act. Section 7 of this act provided as follows:

“Whenever in the year 1932 the state relief commission finds that any county has issued all the bonds which it is authorized to issue under the provisions of section 3 of this act, and that all the funds derived therefrom have been expended for poor relief or definitely allocated for necessary poor relief expenditures in the budget approved under the provisions of section 9 of this act, and that additional funds are necessary

for poor relief prior to March 1, 1933, and the tax commission finds that no other means exist to provide such funds except by the issue of bonds, the county commissioners of any county or the council or other legislative body of any city may provide by resolution for the issue of the bonds of such county or city in an amount not exceeding 1/10 of one per cent of the general tax list and duplicate of such county or city. Indebtedness created hereunder by a city shall be subject to the provisions and limitations of section 2293-14 as modified by section 2293-18 of the General Code, and indebtedness created hereunder by a county shall be subject to the provisions and limitations of section 2293-16 as modified by section 2293-18 of the General Code. The maximum maturity of such bonds shall be on or before September 15, 1940. The issuance, sale and characteristics of such bonds shall conform to the provisions of the uniform bond act governing the issuance, sale and characteristics of bonds issued without vote of the people, except as in this act expressly otherwise provided."

It is obvious that the period of time during which bonds could be issued under the foregoing section was limited to an interval between the effective date of the act and March 1, 1933. In addition to providing that bonds issued under this section must be within the limitation as to amount of bonds that could be issued under the Uniform Bond Act, the section imposed a further limitation of one-tenth of one per cent of the general tax list and duplicate of the county or city issuing the bonds.

Section 7 of Amended Senate Bill No. 4, supra, was amended by Senate Bill No. 63 of the 90th General Assembly, as an emergency measure, passed February 14, 1933, and filed in the office of the Secretary of State February 28, 1933. As amended, this section provides as follows:

"Whenever in the years 1932, 1933 or 1934 the state relief commission finds that any county has issued all the bonds which it is authorized to issue under the provisions of section 3 of this act, and that all the funds derived therefrom have been expended for poor relief or definitely allocated for necessary poor relief expenditures in the budget approved under the provisions of section 9 of this act, and that additional funds are necessary for poor relief prior to March 1, 1935, and the tax commission finds that no other means exist to provide such funds except by the issue of bonds, the county commissioners of any county or the council or other legislative body of any city may provide by resolution for the issue of the bonds of such county or city in an amount not exceeding in the aggregate 1/10 of one per cent of the general tax list and duplicate of such county or city. Indebtedness created hereunder by a city shall be subject to the provisions and limitations of section 2293-14 as modified by section 2293-18 of the General Code, and indebtedness created hereunder by a county shall be subject to the provisions and limitations of section 2293-16 as modified by section 2293-18 of the General Code. The maximum maturity of such bonds shall be on or before September 15, 1942. The issuance, sale, and characteristics of such bonds shall conform to the provisions of the uniform bond act governing the issuance, sale, and characteristics of bonds issued without vote of the people, except as in this act expressly otherwise provided."

A comparison of the section as amended with the section as originally enacted discloses but two changes: First, the provisions of the section are extended for a period of two years, that is to say, instead of authorizing bonds to be issued for providing additional funds necessary for poor relief prior to March 1, 1933, the amendment authorizes the issuance of such bonds to provide additional funds necessary for poor relief prior to March 1, 1935. In harmony with this extension, the amendment provides that the maximum maturity shall be on or before September 15, 1942 instead of September 15, 1940. Second, the clause which limited the amount of indebtedness which could be incurred under this section to one-tenth of one per cent of the general tax list and duplicate, by this amendment now provides a limitation of an amount not exceeding "in the aggregate" one-tenth of one per cent of the general tax list and duplicate. Had not these words "in the aggregate" been inserted, it could still be argued that the limitation does not apply to each separate year in the absence of qualifying words to that effect, but that it applies to bonds issued under that section. By the insertion, however, of these words "in the aggregate", as qualifying the limitation, the legislature has unmistakably limited the total amount of bonds which may be issued under the section. Any other construction would give no effect to the amendment of the section by the 90th General Assembly, limiting the amount of bonds that may be issued thereunder.

Specifically answering your inquiry, it is my opinion that the aggregate amount of bonds which may be issued during the years 1932, 1933 and 1934 under Section 7 of Amended Senate Bill No. 4 of the 89th General Assembly, special session, as amended by Senate Bill No. 63 of the 90th General Assembly, may not exceed one-tenth of one per cent of the general tax list and duplicate of a subdivision issuing such bonds, and such indebtedness must further be within the limitations as to the unvoted net indebtedness provided by the Uniform Bond Act.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

962.

EDUCATIONAL EQUALIZATION FUND—ELECTORS VOTING IN FAVOR OF LEVYING TAXES OUTSIDE FIFTEEN-MILL LIMITATION—ELECTORS MAY NOT LATER VOTE TO CEASE PARTICIPATION WITHIN PERIOD STATED IN ORIGINAL RESOLUTION.

**SYLLABUS:**

*When a board of education resolves to submit to the electors the question of participation in the state educational equalization fund and a levy of taxes outside the fifteen mill limitation for a definite period of years as set forth in such resolution, and the question is submitted in accordance with Section 5625-18a, General Code, when a majority of the electors voting thereon vote in favor thereof, the board of education may levy a tax at such additional rate outside the fifteen mill limitation during the definite period of years stated in the original resolution to submit the question to the electors, or for any number of years less than said period, and there is no authority to submit to the electors the question of ceasing to participate in said fund.*