

which covered only a part of the term. It is evident that those entering into the bond are bound to have knowledge as to the authority of the legislature to extend the term in pursuance to law.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2158.

TAXES AND TAXATION—DEPUTY ASSESSORS UNDER SECTION 5548 G. C. CAN BE PAID OUT OF COUNTY TREASURY—OFFICES COMPATIBLE—MAYOR OF MUNICIPALITY OR TOWNSHIP TRUSTEE AND DEPUTY ASSESSOR.

Deputy assessors under General Code section 5548 can be paid out of the county treasury.

The office of mayor or a municipality or township trustee and deputy assessor are compatible.

COLUMBUS, OHIO, June 9, 1921.

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

GENTLEMEN:—Your letter of recent date received in which you request the opinion of this department, as follows:

“Under our present system of appraising property for taxation, where the county auditor permits the citizens of a municipality or township to select the board of appraisers to assist him in arriving at values, and the people select the mayor of a municipality or the trustee of a township on said board:

Question 1. Can such officers be paid from the county treasury for such service

Question 2. Are such positions compatible?”

General Code section 5548 provides in part as follows:

“The county auditor, is empowered to appoint and employ such experts, deputies, and clerks, or other employes, as he may deem necessary to the performance of such duties as such assessor; the amount to be expended in the payment of their compensation to be fixed and determined by the county commissioners. If, in the opinion of the county auditor the county commissioners shall fail to provide a sufficient amount for their compensation, he may make application to the tax commission of Ohio for an additional allowance, and the additional amount of compensation allowed by such commission, if any, shall be duly certified to the board of county commissioners, and the same shall be final; provided, however, that if the assessment is ordered by the tax commission of Ohio such commission shall in such order prescribe the number of experts, deputies, clerks or employes to be appointed by the county auditor for the purpose of making such assessment, and fix their compensation. The salaries and compensation of such experts, deputies, clerks and employes shall be paid, upon the warrant of the auditor, out of the general fund of the county; and in case the same are, in whole or in part,

fixed by the tax commission, they shall constitute a charge against the county, regardless of the amount of money in the county treasury levied or appropriated for such purposes. * * *"

It is apparent that the above citation settles question No. 1 of your letter. That portion of the statute provides definitely that such assistant appraiser shall be paid out of the county treasury. Therefore your first question is answered in the affirmative.

In answer to your second question it is assumed that when you say "board of appraisers" you have in mind a deputy real estate assessor. A deputy assessor under General Code section 5548 does not fix the value of land for taxation but only gathers information as requested by the auditor relating to description and character that the auditor may himself fix the value. This means in other words that the deputy is an employe and not an officer. In the case of *State ex rel. vs. Gebert*, 12 O. C. C. (N. S.) 279, the rule of Ohio in determining whether or not positions are compatible is as follows:

"Offices are considered incompatible when one is subordinate to or in any way a check upon the other and when it is physically impossible for one person to discharge the duties of both."

An examination of the laws governing the duties of a mayor of a municipality and a trustee of a township shows that in neither case would one of the positions be subordinate to or in any way be a check upon the other and that it is not physically impossible for the mayor or township trustee to perform the duties of both.

Your attention is directed to Attorney-General's Opinions for 1920, Vol. II, p. 1165, which concludes that the offices of deputy assessor and township trustee are compatible.

From the above considerations it is concluded that your second inquiry be answered in the affirmative.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2159.

APPROVAL, FINAL RESOLUTION COVERING ROAD IMPROVEMENT,
FULTON COUNTY, OHIO.

COLUMBUS, OHIO, June 9, 1921.

HON. LEON C. HERRICK, *State Highway Commissioner, Columbus, Ohio.*