

See also Opinions of the Attorney General for 1927, Vol. 2, page 745. and for 1927, Vol. 3, page 2055.

It would therefore appear that unless the facts in your case clearly show that the board of county commissioners has failed to use its discretion the remedy of mandamus would not lie to compel it to increase the amount of appropriation for deputy and clerk hire for the office of county auditor.

Specifically answering your inquiries it is my opinion that:

1. The duty of making appropriations for the payment of deputy and clerk hire in the various county offices is placed upon the board of county commissioners by Section 5625-29, General Code.

2. No right of appeal to the Tax Commission of Ohio has been provided by the Ohio statutes from an order of the board of county commissioners fixing the amount of the appropriation for deputy hire for the office of county auditor even though in some respects the county auditor may be the agent of the Tax Commission.

3. The Court of Common Pleas of the county has no jurisdiction to hear an appeal from such order by virtue of the provisions of Section 2461, General Code.

4. When the statutes places a duty upon the board of county commissioners, to make appropriations for the various county purposes within restrictions provided by the statute, and such board has made the appropriations, it can not be compelled to amend or alter such appropriation order by a writ of mandamus, unless there has been such disregard of the duties imposed upon such board by the legislature as will amount in law to an utter failure on the part of the board of county commissioners to use discretion and judgment.

Respectfully,

JOHN W. BRICKER,
Attorney General.

397.

APPROVAL, NOTES OF JACKSON TOWNSHIP RURAL SCHOOL DISTRICT, COSHOCTON COUNTY, OHIO—\$2,753.00.

COLUMBUS, OHIO, March 25, 1933.

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

398.

APPROVAL, NOTES OF QUINCY VILLAGE SCHOOL DISTRICT, LOGAN COUNTY, OHIO—\$5,598.00.

COLUMBUS, OHIO, March 25, 1933.

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