

with the foreign corporation laws of this state need be filed with the superintendent of banks, in order to comply with the provisions of Section 710-152, General Code.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

4189.

BUDGET LAW—PROVISION THAT TAX BUDGET BE DRAWN BY  
JULY 15th, CONSTRUED AS DIRECTORY.

SYLLABUS:

*The provision of section 5625-20, General Code, designating the 15th day of July as the date on or before which the taxing authority of a subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year, is directory; and a subdivision may adopt such budget on the 20th day of July after a hearing is had on such tax budget on public notice in the manner required by section 5625-22, General Code.*

COLUMBUS, OHIO, March 28, 1932.

HON. CHARLES D. DILATUSH, *Prosecuting Attorney, Lebanon, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a communication from you in which you request my opinion as to whether the terms of section 5625-20, General Code, providing for the adoption of a tax budget by the taxing authorities of the county and of the subdivisions thereof, are mandatory with respect to the time when such tax budget shall be adopted.

This section provides that "On or before the 15th day of July in each year, the taxing authority of each subdivision or other taxing unit shall adopt a tax budget for the next succeeding fiscal year." In view of the provisions of this section, you inquire whether or not the county commissioners of a county after a public hearing thereon had pursuant to notice in the manner provided by law, would have authority to adopt a tax budget for the county on July 20, and on such date submit the same to the county auditor for presentation to the county budget commission.

As above noted, the question here presented is whether the provision of section 5625-20, General Code, with respect to the time when the tax budget to meet the expenses of the subdivision for the next fiscal year is to be adopted, is mandatory or merely directory. Touching the question here presented, it was held in the case of *Schick vs. City of Cincinnati*, 116 O. S. 16, as follows:

"Statutes which relate to the manner or time in which power or jurisdiction vested in a public officer is to be exercised, and not to the limits of power or jurisdiction itself, may be construed to be directory, unless accompanied by negative words importing that the act required shall not be done in any other manner or time than that designated."

In the opinion of the court in the case of *State, ex rel., vs. Barnell*, 109 O. S. 246, 255, it is said:

“Whether a statute is mandatory or directory is to be ascertained from a consideration of the entire act, its nature, its object, and the consequences which would result from construing it one way or the other. 36 Cyc., 1157.

Where the instructions of a statute are given merely with a view to the proper, orderly, and prompt conduct of business, the provisions may generally be regarded as directory. *Hurford vs. City of Omaha*, 4 Neb., 336-350.

A statute specifying a time within which a public officer is to perform an official act regarding the rights and duties of others is directory merely, unless the nature of the act to be performed or the phraseology of the statute or of other statutes relating to the same subject-matter is such that the designation of time must be considered a limitation upon the power of the officer. 36 Cyc., 1160.”

There is nothing in the provisions of section 5625-20, General Code, or in any other statute relating to this matter which in terms negatives the authority of the taxing officials of a subdivision to adopt such tax budget after the time designated in section 5625-20, General Code; and upon the principles noted by the Supreme Court in the cases above cited, I am of the opinion that in the case presented in your communication the county commissioners had authority to adopt a tax budget for the county on July 20.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

4190.

APPROVAL, CONDITIONALLY, QUIT CLAIM DEED EXECUTED BY  
THE AMERICAN STEEL AND WIRE COMPANY OF NEW JERSEY,  
CONVEYING LAND IN VILLAGE OF NORTHFIELD, SUMMIT  
COUNTY, OHIO, TO STATE OF OHIO.

COLUMBUS, OHIO, March 28, 1932.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a communication from you, enclosing a quit claim deed to be executed by The American Steel and Wire Company of New Jersey, conveying to the State of Ohio four certain parcels of land situated in the Village of Northfield, Summit County, Ohio, and aggregating in extent about 26 acres of land.

You request me to approve this deed form before the same is executed for the purpose above indicated.

Apparently, the property here in question is to be conveyed to the State of Ohio as a part of the consideration for the execution of a lease executed by the State of Ohio under date of December 22, 1931, by which there was leased and demised to The American Steel and Wire Company of New Jersey