

919.

APPROVAL, BONDS OF MAHONING COUNTY—\$210,200.00.

COLUMBUS, OHIO, September 25, 1929.

*Industrial Commission of Ohio, Columbus, Ohio.*  

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920.

APPROVAL, BONDS OF FINDLAY, HANCOCK COUNTY—\$134,000.00.

COLUMBUS, OHIO, September 25, 1929.

*Industrial Commission of Ohio, Columbus, Ohio.*  

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921.

APPROVAL, BONDS OF LORAIN COUNTY—\$26,000.00.

COLUMBUS, OHIO, September 25, 1929.

*Industrial Commission of Ohio, Columbus, Ohio.*  

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922.

COUNTY COMMISSIONERS—AUTHORIZED TO APPOINT ONLY ONE  
DEPUTY APIARIST.**SYLLABUS:**

*Under the terms of Section 1165-3 of the General Code, the county commissioners of a county have no authority to appoint more than one deputy apiarist.*

COLUMBUS, OHIO, September 26, 1929.

HON. PERRY L. GREEN, *Director, Department of Agriculture, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date, which is as follows:

"A recently enacted Section 1165-3, of the Apiary Inspection Law of Ohio provides that county commissioners may appropriate funds for the inspection of apiaries within their counties, likewise giving them the authority to appoint a deputy apiarist with the consent and concurrence of the Director of Agriculture.

Several boards of commissioners have already appropriated money and appointed deputy apiarists. Several counties have asked if it is permissible by the law to appoint two or more deputies to carry on the work in their county. We would appreciate your official opinion in regard to appointing more than one inspector within a county."

Section 1165-3, General Code, provides as follows :

"County commissioners of the several counties shall have and are hereby given authority to appropriate such funds as they may deem sufficient for the inspection of apiaries in their counties. They shall have authority to appoint a deputy apiarist with the consent and concurrence of the director of agriculture, said deputy apiarist to serve during the pleasure of said board of commissioners except as hereinafter specified. Such county deputy apiarist shall be paid a per diem of five dollars for each day, or two dollars and fifty cents for each half day of inspection work actually done, together with such expenses as may necessarily be incurred in the doing of the inspection work. \* \* \* "

Section 1165-3 of the General Code, supra, provides that the county commissioners shall have authority to appoint a *deputy apiarist* with the consent and concurrence of the Director of Agriculture. While Section 1165-3 provides that county commissioners shall have authority to appropriate such funds as they may deem sufficient for the inspection of apiaries in their county, it does not mean that they are authorized to appropriate sufficient funds to do all the inspection work necessary with reference to apiaries. The responsibility of the enforcement of the laws relative to the inspection of apiaries rests with the Director of Agriculture, and under the provisions of Section 1165 of the General Code, he has authority to appoint as many deputy apiarists as he deems necessary to carry out this work. Prior to the enactment of Section 1165-3 of the General Code, the Director of Agriculture had sufficient authority to fully carry out the provisions of the law relative to the inspection of apiaries. By the enactment of Section 1165-3 of the General Code, the Legislature did not intend to transfer the responsibility for the inspection of apiaries from the Director of the Department of Agriculture to the county commissioners, but merely intended that the county should bear some of the expense of carrying out this work. However, the Legislature limited this expenditure to the salary for one apiarist as fixed by the statute together with such expense as he may necessarily incur in doing inspection work. Some of the county commissioners may have asked whether or not it is permissible to appoint two or more deputies under the terms of Section 1165-3, General Code, by reason of the terms of Section 1164 of the General Code. Section 1164, General Code, provides in part as follows :

"For the purposes of this act (Sections 1164 to 1169-2 of the General Code, inclusive) the following terms shall be construed respectively to mean :

(1) The singular and plural form of any word or term in this act shall be interchangeable and equivalent within the meaning of this act.

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This section merely provides a rule of construction to be employed when it is

necessary to determine the meaning of the terms of the act as intended by the Legislature, but not when the intention of the Legislature is clear by the very terms of the act.

In specific answer to your inquiry, I am of the opinion that under the terms of Section 1165-3 of the General Code, the county commissioners of a county have no authority to appoint more than one deputy apiarist.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

923.

STREET LIGHTING—CONTRACT ENTERED INTO BY MUNICIPALITY WITHOUT CERTIFICATE OF FISCAL OFFICER—PROCEDURE OUTLINED IN SENATE BILL 187 MAY VALIDATE SUCH VOID CONTRACT.

**SYLLABUS:**

*Application of the provisions of Senate Bill No. 187 to certain contracts discussed.*

COLUMBUS, OHIO, September 26, 1929.

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

GENTLEMEN:—I am in receipt of your letter of September 11, enclosing a letter addressed to your bureau by the city solicitor of Canton, Ohio, advising me that the subject matter is one of general interest and that my views will be appreciated. The letter is as follows:

"I respectfully request that you obtain an opinion from the Attorney General of the State of Ohio bearing on the following situation:

The city of Canton, Ohio, negotiated a contract for street lighting purposes with the Ohio Power Company, which contract was effective November 1, 1926. At the time the contract was executed no certificate was made by the fiscal officer of the city that the funds to be expended under the contract were either in hand or in process of collection. Both the city solicitor and the power company were relying upon the terms of Section 3809, O. G. C., which specifically provided that no certificate was necessary in cases involving contracts for lighting streets.

Prior to the time that the contract was executed, and on April 17, 1925, the Legislature passed Section 5660, O. G. C., which by its terms required a certificate by the fiscal officer even in the case of contracts for street lighting. Unfortunately at the time this last mentioned section was enacted, Section 3809, O. G. C., above referred to, was not specifically repealed, and the existence of the section was overlooked, because of the failure to insert a specific clause of repeal in the new law.

Section 5660, O. G. C., has since that time, been repealed, as was the old Section 3809, O. G. C. The repeal of these sections being effected in Section 40 of House Bill No. 80, now 112 Ohio Laws 391, 409. For our purposes, however, we may disregard this fact because the present statute is substantially the same as the old Section 5660.