

sity. This should be submitted to the office of the state auditor before the final consummation of this purchase.

Attention is also directed to the provisions of section 12 of the general appropriation act of the eighty-sixth general assembly, which provides that "no moneys herein appropriated for the purchase of real estate shall be expended without the consent and approval of the controlling board herein provided for; such approval to be evidenced by a majority vote of the board, entered on the minutes."

The consent and approval above provided for must be procured and properly evidenced by a transcript of the minutes of the controlling board before the final consummation of this transaction.

The abstract and deed submitted by you are herewith returned.

Respectfully,

C. C. CRABBE,  
*Attorney General.*

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2778.

MUNICIPALITY—AN ORDINANCE PROVIDING FOR INVESTING OF GENERAL FUNDS OF CITY, OTHER THAN SINKING FUNDS, IN THE OBLIGATIONS OF SUCH CITY, IS INVALID.

SYLLABUS:

*An ordinance providing for the investing of the general funds of a city, other than sinking funds, in the obligations of such city, is invalid.*

COLUMBUS, OHIO, Sept. 12, 1925.

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

GENTLEMEN:—I am in receipt of your communication, as follows:

"Council of the city of C. adopted Ordinance No. 70381, providing for the investment of general city funds other than sinking funds in bonds of the city of C. A copy of said ordinance is enclosed herewith. There is no provision of the city charter which authorizes this action and we will very much appreciate your opinion relative to the validity of said Ordinance No. 70381."

Section 87-A of Ordinance No. 70381 in part provides:

"Whenever any obligations of the city of C. are to be sold, and the same are not taken by the sinking fund commission, or when such obligations are otherwise available for purchase by the city, the director of finance shall submit to the city manager and the director of law a statement of moneys in the treasury or in the process of collection, and a schedule showing probable requirements of money for the operation of the city for such period, not less than three months, as the city manager may direct, together with a recommendation as to whether any moneys in the treasury should be invested in such obligations. The manager, the director of law and the director of finance may thereupon order such investments of moneys in the treasury, at not more than par and accrued interest, as they may deem advisable in the interests of the city."

This is an attempt to authorize the city manager, the director of law and the director of finance to purchase obligations of the city at par and accrued interest when such obligations are not taken by the sinking fund commission.

Nowhere in the constitution or statutes do I find any authorization for investing any of the general funds of a municipality in any obligation of a municipality or of any other subdivision of the state, and I am informed that there is no such authorization in the city charter.

Section 4294, General Code, provides as follows:

"Upon giving bond as required by council, the treasurer may, by and with the consent of his bondsmen, deposit all funds and public moneys of which he has charge in such bank or banks, situated within the county, which may seem best for the protection of such funds, and such deposit shall be subject at all times to the warrants and orders of the treasurer required by law to be drawn. All profits arising from such deposit or deposits shall inure to the benefit of the funds. Such deposit shall in no wise release the treasurer from liability for any loss which may occur thereby."

The following section, 4295, of the General Code, in part provides as follows:

"The council may provide, by ordinance, for the deposit of all public moneys coming into the hands of the treasurer, in such bank or banks, situated within the municipality or county, as offer, at competitive bidding, the highest rate of interest \* \* \*."

The two sections quoted are the only ones relating to funds in the hands of the treasurer of a municipality, or his successor, under a charter government. This method of caring for the municipal fund would seem to be exclusive. The purpose in enacting such a statute is to safeguard the funds of the city. If the city may by ordinance provide for investing its funds in its own obligations, it may provide for the investing of its funds in the obligations of any other political sub-division or in the obligations of private corporations or individuals. To permit a municipality to invest its general funds except as is specified by the statute, would impair the safety of such funds.

The only conclusion that can be reached is that the method provided by sections 4294 and 4295, General Code, is exclusive and that the ordinance attempting to permit investing in its own obligations is illegal because contrary to the general statute.

The proposed ordinance would authorize the city officials to invest in the obligations of the city whenever the same are not taken by the sinking fund commission.

Section 3922, General Code, provides to whom bonds shall be offered and is as follows:

"When a municipal corporation issues its bonds, it shall first offer them at par and accrued interest to the trustees of the sinking fund in their official capacity, or, in the case there are no such trustees, to the officer or officers of such corporation having charge of its debts, in their official capacity. If such trustees or other officers of the sinking fund decline to take any or all of such bonds at par and accrued interest, the corporation shall offer to the board of commissioners of the sinking fund of the city school district such bonds or so many of them, at par and accrued interest and without competitive bidding, as have not been taken by the trustees of the sinking fund, and the board of commissioners of the sinking fund of the city school district may take such bonds, or any part thereof."

Section 3923, General Code, provides that when such bonds are not taken by the persons named in section 3922, the bonds shall be advertised and sold at public sale. In the two sections above quoted, there is no authorization for the city to offer such obligations to the persons in charge of the general fund of such municipality. The ordinance, therefore, would seem to be invalid for the reason that it conflicts with the sections relating to the sale of obligations by municipalities.

You are therefore advised that an ordinance providing for the investing of the general funds of a city, other than sinking funds, in the obligations of such city, is invalid.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

2779.

AUTHORITY OF COUNTY COMMISSIONERS TO PURCHASE MOTOR  
VEHICLES UNDER SECTION 2412-1 G. C. DISCUSSED.

SYLLABUS:

1. *By amended senate bill No. 44, county commissioners may purchase motor vehicles, without the approval of the common pleas court, for the sheriff and sanitary engineer or their employes, to be used subject to the regulation of such officials.*
2. *Under this act, county commissioners may purchase motor vehicles, with the approval of the common pleas court, for their own use or for the use of any department under their direct control. When purchased, such vehicles shall be for the use of the county commissioners or other county officials, such use to be subject to the regulation of the county commissioners.*

COLUMBUS, OHIO, Sept. 12, 1925.

HON. OTHO L. MCKINNEY, *Prosecuting Attorney, Springfield, Ohio.*

DEAR SIR:—I am in receipt of your communication, as follows:

“We desire an opinion upon a certain phrase as used in section 2412-1, General Code, as amended in senate bill No. 44 at the last general assembly. In your opinion, what departments are under the direct control of the board of county commissioners for which the commissioners would be authorized to purchase motor vehicles?”

“The first paragraph of the section authorizes the purchase of motor vehicles for the sheriff or sanitary engineer. Section 7200, General Code, authorizes the commissioners to purchase motor vehicles for the use of the county engineer, all of which is specific enough, but the board of county commissioners of this county have asked how far they may go in furnishing automobiles for other departments and offices of the county, hence the desire for an opinion on the broadness of the term ‘department under their direct control.’”

Section 2412-1, General Code, as amended in senate bill No. 44, provides as follows: