

2978.

APPROVAL—BONDS OF CITY OF CLEVELAND, CUYAHOGA COUNTY, OHIO, \$11,000.00, PART OF ISSUE DATED AUGUST 1, 1929.

COLUMBUS, OHIO, September 15, 1938.

*State Employes Retirement Board, Columbus, Ohio.*

GENTLEMEN:

RE: Bonds of City of Cleveland, Cuyahoga County, Ohio, \$11,000.00.

The above bonds appear to be part of two issues of bonds of the above city dated August 1, 1929. The transcripts relative to these issues were approved by this office in two opinions rendered to the Teachers Retirement System, being Opinion No. 2022, rendered March 7, 1938 and Opinion No. 2620, rendered June 22, 1938.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said city.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

2979.

OHIO MINIMUM WAGE LAW—EMPLOYES—STATE OF OHIO, COUNTIES AND MUNICIPALITIES NOT BOUND—SECTIONS 154-45d TO 154-45t G. C.

*SYLLABUS:*

*The State of Ohio, counties and municipalities are not bound by the provisions of the Ohio minimum wage law, Sections 154-45d to 154-45t G. C., inclusive.*

COLUMBUS, OHIO, September 16, 1938.

HON. O. B. CHAPMAN, *Director, Department of Industrial Relations, Columbus, Ohio.*

DEAR SIR: I am in receipt of your recent inquiry in which you raise

the question whether the Ohio Minimum Wage Law, Sections 154-45d to 154-45t, both inclusive, General Code, includes within its scope employees of state, county and municipal institutions.

In examining the Ohio Minimum Wage Law, I find there is no definition of employer. Since this legislation is obviously of the remedial class, the first inclination is to say that all employees are included who are not specifically exempted (state employees are clearly not included, since it is a fundamental rule of statutory construction that the statutes are not to be interpreted to include the state unless there is express evidence in the statutes to the contrary), and therefore that the Minimum Wage Law does include county and municipal employees in county and municipal institutions. However, it should be kept in mind that the purpose of all statutory construction is to carry out the intention of the legislature and no canon of statutory construction is applicable which produces a result contrary to the express or implied legislative intent.

It is said that remedial statutes are to be liberally construed because they were enacted presumably to correct a situation which in the opinion of the legislature needed correction and that, unless the contrary appears, the legislature intended that the legislation should apply to all cases in which the condition to be remedied existed. Fortunately, in this particular instance we do not have to resort to conjecture to ascertain the purpose of and the reason for the legislation.

The Ohio Minimum Wage Law was enacted by the 90th General Assembly, House Bill No. 681 (115 O. L. 502-510), and Section 18 thereof provides as follows:

“This act is hereby declared to be an emergency law, necessary for the immediate preservation of the public health, peace and safety. The reason for such necessity lies in the fact that sweat-shop evils are growing throughout the State of Ohio; that wages, so low as to be detrimental to the health and welfare of thousands of workers in industry, are being paid by many employers; that payment of such low and oppressive wages encourages and promotes ‘cut throat’ competition in industry to the detriment of employers and employes alike and to business and industry in general. This act shall therefore go into immediate effect.”

A reading of the above provisions convinces me that the legislature was trying to correct a condition in private business—notice for example the reference to “workers in industry”, “competition in industry” and “business and industry”.

Although a strong moral case could be made for employes of county and municipal institutions who are paid a wage less than a "fair wage", as that term is used in Section 154-45d8, General Code, we are bound in interpreting the statutes to give heed to the expressions of the legislature and in this case, with the aforesaid Section 18 of House Bill 681 before me, I am of the opinion that the conclusion is inescapable that the State of Ohio, counties and municipalities are not amenable to the Minimum Wage Law.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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2980.

APPROVAL—BONDS OF LUCAS COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, September 16, 1938.

*The Industrial Commission of Ohio, Columbus, Ohio.*

GENTLEMEN :

RE: Bonds of Lucas County, Ohio, \$5,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above county dated September 1, 1935. The transcript relative to this issue was approved by this office in an opinion rendered to the Teachers Retirement System under date of July 15, 1936, being Opinion No. 5843.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said county.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*