

any deposit of public funds made by or on behalf of any state, county, school district or other subdivision or municipality, or to any deposit of trust funds if the payment of interest with respect to such deposit of public funds or of other trust funds is required by state law."

By the term "member bank" as used in the paragraph of the Banking Act of 1935, quoted above, is meant any bank which is a member of the Federal Reserve Banking System. The fact is, that all national banks, and a very large proportion of state banks are members of the Federal Reserve System. The result is that a depository contract for the deposit of county funds or of any other funds, upon which, under the law of this state interest is required to be paid by public depositories, cannot be made with any member bank of the Federal Reserve System for a period longer than until August 23, 1937, and said member banks are precluded from bidding for such deposits for a period longer than until August 23, 1937, inasmuch as all such deposits are demand deposits within the meaning of the term as used in that paragraph of the Banking Act of 1935 quoted above.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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5030.

COUNTY COMMISSIONERS—MAY LEASE LAND ONLY  
ADJACENT TO COUNTY HOME WHEN.

**SYLLABUS:**

*County Commissioners have no authority to lease farm lands for the purpose of raising food for the county home if such lands do not adjoin the existing site of the home.*

COLUMBUS, OHIO, December 24, 1935.

HON. ALVIN F. WEICHEL, *Prosecuting Attorney, Sandusky, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion which reads as follows:

"The Board of County Commissioners of Erie County, Ohio, are desirous of renting or leasing farm lands, not adjoining the County Home, for the purpose of raising food stuffs for the County Home and feed for cattle and hogs raised for the use of the County

Home. I find no authority for such permanent action by the Board. Therefore, they have asked that I secure an opinion from your office; a copy of their letter to me is hereto attached."

The Board of County Commissioners together with other public officers and boards have only such powers as are given them by statute and such implied powers as are necessary to carry out the expressed powers. *Jones, Auditor, vs. Comms.*, 57 O. S., 189; *Elder vs. Smith*, 103 O. S., 369. In 11 O. Jur., at page 508 it is stated that:

"The authority of the county commissioners to bind the public by contract is by no means unlimited. On the contrary, it is measured by statutory enactment, and their contracts are void unless they come within and conform to the statute."

Any power possessed by the County Commissioners with respect to the acquisition of an interest in real estate must be derived from section 2433, General Code, which as recently amended (116 O. L., 477, Sec. 1.) reads as follows:

"The taxing authority of any county in addition to other powers conferred by law shall have power to purchase, for cash or by installment payments, lease with option to purchase, lease, appropriate, construct, enlarge, improve, rebuild, equip and furnish a court house, county offices, jail, county home, juvenile court building, detention home, public market houses, county children's home and other necessary buildings, and sites therefor; also, *such real estate adjoining an existing site* as such taxing authority may deem necessary for any of the purposes aforesaid, including real estate necessary to afford light, air, protection from fire, suitable surroundings, ingress and egress." (Italics the writer's.)

It will be noted that the above section now gives the County Commissioners the power to lease lands as well as purchase the same, but the provision that such leases and purchases can be made only of property which adjoins the existing site was left unchanged. Therefore, even though the acquisition of an interest in land for the purpose of producing food for the county home is within the power of the Commissioners, such land must adjoin the property on which the home is situated.

In an opinion to be found in the *Opinions of the Attorney General for 1928*, at page 1502, it was held as is disclosed by the second branch of the syllabus:

“The board of county commissioners of a county is without authority to purchase from a cemetery association a plot of ground, which does not adjoin the existing site of the county home, for the purpose of providing a place to bury the indigent poor who are county charges at the time of their death.”

The above opinion indicated that land adjoining the home could be used or acquired as a burial place for indigent poor but the power of the commissioners in this respect was limited to the express provisions of section 2433, General Code.

It is therefore my opinion, in specific answer to your question, that the county commissioners have no authority to lease farm lands for the purpose of raising food for the county home if such lands do not adjoin the existing site of the home.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

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5031.

APPROVAL, BONDS OF FAIRFIELD TOWNSHIP RURAL  
SCHOOL DISTRICT, COLUMBIANA COUNTY, OHIO,  
\$30,000.00 (UNLIMITED).

COLUMBUS, OHIO, December 24, 1935.

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

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5032.

APPROVAL, BONDS OF MAPLE HEIGHTS CITY SCHOOL  
DISTRICT, CUYAHOGA COUNTY, OHIO, \$18,350.00.

COLUMBUS, OHIO, December 24, 1935.

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