

Section 5655-7, a part of the Baxter Bill, provides that the taxing authorities of a taxing district taking advantage of the provisions of that act, shall include in their budgets for the year 1927, or may divide the total sum into not more than five equal bids and include one of said bids in each of their budgets beginning with the year 1927 and ending in the year 1931. Or the taxing authorities may determine that the funding of said deficiency is necessary, and in such case may issue notes of the district and the issue of such notes must be approved by the county auditor. By this section notes may be issued in an amount not greater than the sum found by the Auditor of State as being the aggregate of said net deficiency.

A district may not issue such deficiency notes in an amount greater than the amount certified by the State Auditor.

In cases in which the transfer of an entire school district has been made to an adjoining district, the Board of Education comprising such transferred district, is abolished.

Section 4692 of the General Code in part provides:

"If an entire district is transferred the board of education of such district is hereby abolished, \* \* \*."

As the board of education of the district transferred is abolished by the act of the transfer such board could not at this time issue the deficiency notes provided by the Baxter Bill. And as the district to which the transferred district has been attached has had certified to it the amount of net deficiency for which said district may issue notes the district would be bound by the amount certified by the State Auditor.

However, it may be suggested that if the district to which the abolished district has been attached has sought to take advantage of the Baxter Bill and has had the amount of net deficiency certified and has not yet issued notes or provided a levy for the payment of the same, that such district could ask the State Auditor to include in such net deficiency the amount of the net deficiency found by the State Auditor for the abolished district and by securing an amended certification of the net deficiency of the now existing district could issue notes therefor.

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

3761.

DISAPPROVAL, BONDS OF VILLAGE OF LOVELAND, CLERMONT COUNTY, \$12,000.00.

COLUMBUS, OHIO, October 27, 1926.

Re: Bonds of Village of Loveland, Clermont County, \$12,000.00.

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

GENTLEMEN:—An examination of the transcript submitted in connection with the foregoing issue of bonds discloses that the notice of the sale of the bonds has been published in but one newspaper. In response to correspondence had with the officers of the village concerning the publication of this notice, the clerk of the village recites:

"In answer to your letter of yesterday, permit me to advise you that there is but one newspaper printed and published in this municipality, and we feel that the publication in that paper complies with G. C. 4228.

Please see 91 O. S. 354, Elmwood Place versus Shanzie, in which case our Supreme Court held: 'Publication of Municipal Ordinance in the only newspaper of general circulation published in the municipality constitutes a compliance with G. C. 4228 et seq'."

The question at issue in the case above cited was upon the publication of the ordinance providing for the issuance of bonds and not upon the question as to the publication of the notice of the sale of the bonds.

Section 4228 G. C. provides:

"Unless otherwise specifically directed by statute, all municipal ordinances, resolutions, statements, orders, proclamations, notices and reports, required by law or ordinance to be published, shall be published as follows: In two English newspapers of opposite politics printed and of general circulation in such municipality, if there be such newspapers; if two English newspapers of opposite politics are not printed and of general circulation in such municipality, then in one such political newspaper and one other English newspaper printed and of general circulation therein; if no English newspaper is printed and of general circulation in such municipality, then in any English newspaper of general circulation therein or by posting as provided in section forty-two hundred thirty-two of the General Code; at the option of council. Proof of the place of printing and required circulation of any newspaper used as a medium of publication hereunder shall be made by affidavit of the proprietor of either of such newspapers, and shall be filed with the clerk of council."

It will be noted that this statute starts out with the expression, "Unless otherwise specifically directed by statute."

Section 3924 of the General Code specially provides that the notice of the sale of municipal bonds shall be published in two newspapers of general circulation in the municipality.

It is therefore apparent that section 3924 G. C. cannot be read into or made any part of the provisions of section 4228 G. C. The requirements of section 3924 G. C. are mandatory and failure to comply with the provisions thereof will constitute such failure of statutory requirements that it will be necessary to hold that publication of notices in other form than that prescribed by this section will not constitute a legal and valid sale of the bonds. For this reason, you are advised not to accept said bonds.

Respectfully,

C. C. CRABBE,  
*Attorney General.*

3762.

APPROVAL, BONDS OF VILLAGE OF SEBRING, MAHONING COUNTY,  
\$19,300.00.

COLUMBUS, OHIO, October 27, 1926.

*Department of Industrial Relations; Industrial Commission of Ohio, Columbus, Ohio.*