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INSURANCE—SURETY BONDS—SALES TO POLITICAL SUBDIVISIONS BY MEMBER, GENERAL ASSEMBLY; CLERK, BOARD OF ELECTIONS—FIRE INSURANCE, BIDDING REQUIRED.

SYLLABUS:

1. A member of the House of Representatives in the General Assembly may sell surety bonds required by law for the several county, township and municipal officials within the county from which he was elected.

2. A clerk of a county board of elections may not sell fire insurance to the county in which he is the clerk of the board of elections; but he may have an interest in fire insurance contracts in excess of fifty dollars with governmental and public bodies other than said county where there is a legal requirement that such contract be let on bids after advertisement, and such contract is so advertised and so awarded.

Columbus, Ohio, March 12, 1959

Hon. Fred E. Jones, Prosecuting Attorney
Warren County, Lebanon, Ohio

Dear Sir:

I have received your request for an opinion, which reads as follows:

“Section 2919.08 Ohio Revised Code provides in part as follows:

“ ‘No person, holding an office of trust or profit by election or appointment, or as agent, servant, or employee of such officer or of a board of such officers, shall be interested in a contract for the purchase of property, supplies, or fire insurance for the use of the county, township, municipal corporation, board of education, or a public institution with which he is connected.’

“In addition to the foregoing, Section 2919.09 reads as follows:

“ ‘No person, holding an office of trust, or profit, by election or appointment, or as agent, servant, or employee of such officer or of a board of such officers, shall be interested in a contract for the purchase of property, supplies, or fire insurance for the use of the county, township, municipal corporation, board of education, or a public institution with which he is not connected, if the amount of such contract exceeds the sum of fifty dollars, unless such contract is let on bids advertised as provided by law.’

“I have found no prior opinions directly in point, and respectfully request your opinion on the following questions:

“1. May a Representative to the General Assembly sell surety bonds required by law for various county, township, and municipal officials, within the county from which he is elected?

“2. May a Clerk of the County Board of Elections sell fire insurance in any amount to his own county or to any township or municipality within the county wherein he is so employed as such clerk?

“3. May a Clerk of the County Board of Elections sell fire insurance in excess of \$50.00 for each contract to his own county or to any township, or other political subdivision within the county wherein he is so employed as such clerk, when the contract for such insurance is not advertised for bids?”

Considering your first question, it is noted that Section 2919.08, Revised Code, covers only “property, supplies and fire insurance.” Because

of the specific language employed in this statute, it is my opinion that surety bonds are not covered by said section; and as no other statute specifically prohibits such a transaction, no reason appears why it would not be proper for a member of the House of Representatives in the General Assembly to sell surety bonds to various county, township and municipal officials within the county wherein he was elected, especially as this is a penal statute which must be strictly construed.

As to your second question, the provisions of Section 2919.09, Revised Code, cover expressly the situation to which you refer. A clerk of a county board of elections is an employee of a board of officers, each member of which holds a position of trust or profit by appointment, and as such employee he is prohibited from having an interest in any contract for "fire insurance" with any township, municipal corporation, board of education or public institution, if the amount of such contract exceeds fifty dollars and is not let on bids advertised as provided by law. It must be understood that for such a clerk to be interested in a fire insurance contract in excess of fifty dollars with public bodies, other than the county, there must be a legal requirement that the contract be let on bids preceded by advertisements. If the advertisement for bids is not required by law, the clerk may not have a legal interest in such contract. See Opinion No. 366, Opinions of the Attorney General for 1949, p. 101. Concerning contracts for fire insurance for the county, however, the provisions of Section 2919.08, Revised Code, clearly prohibit the clerk of a county board of elections from having any interest in a fire insurance contract under any condition whatsoever.

The answer to your third question is reflected in the answer to the second. A clerk of a county board of elections is prohibited from selling fire insurance to his own county in any circumstances, and may sell to other public entities on contracts in excess of fifty dollars only where advertising for bids is required by law, and this is in fact done.

To answer your inquiries specifically my opinion is, and I advise you, as follows:

1. A member of the House of Representatives in the General Assembly may sell surety bonds required by law for the several county, township and municipal officials within the county from which he was elected.

2. A clerk of a county board of elections may not sell fire insurance to the county in which he is the clerk of the board of elections; but he may have an interest in fire insurance contracts in excess of fifty dollars with governmental and public bodies other than said county where there is a legal requirement that such contract be let on bids after advertisement, and such contract is so advertised and so awarded.

Respectfully,

MARK McELROY

Attorney General