

lien. It persists for an undetermined amount until such time as a report is filed and a determination of the amount of the tax made and the taxes subsequently paid.

I note that the letter of the attorney for this corporation asks that the amount be assessed and certified to this office for collection. In this connection it is my suggestion that the usual course be followed and that the tax be first certified to the treasurer of state for collection and notice be sent to the corporation in question. Upon delinquency, proceedings may be had under the provisions of Section 5491 by certification to the auditor and recertification to the treasurer, after which the treasurer would be authorized to certify the amount due to the tax commission. Thereafter, by virtue of the provisions of Section 5492 of the Code, the tax and penalty could be certified to this office for collection.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1794.

MUNICIPALITY—MAY ISSUE BONDS FOR PURPOSE OF INSTALLING BUCKETS IN SEWER CATCH BASINS AND FOR RECONSTRUCTING SUCH BASINS WHEN SAME HAVE ESTIMATED LIFE OF 5 YEARS OR MORE.

SYLLABUS:

A municipal corporation may issue bonds for the purpose of installing buckets in sewer catch basins and also for the purpose of reconstructing sewer catch basins in the event that each class of such improvements has an estimated life or usefulness of five years or more.

COLUMBUS, OHIO, March 2, 1928.

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

GENTLEMEN :—This will acknowledge receipt of your communication, as follows :

“May a municipal corporation issue bonds for the purpose of installing buckets in sewer catch basins, which equipment has an estimated life of more than five years?

May a municipal corporation legally issue bonds for the purpose of reconstructing sewer catch basins?”

Section 3939 of the General Code provides in part as follows :

“Each municipal corporation in addition to other powers conferred by law shall have power :

* * * * *

(2) To extend, enlarge, reconstruct, repair, equip, furnish or improve a building or improvement which it is authorized to acquire or construct.

* * * * *

(10) To construct sewers, sewage disposal works, flushing tunnels, drains and ditches.

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Section 2293-2 of the Code is in the following language :

"The taxing authority of any subdivision shall have power to issue the bonds of such subdivision for the purpose of acquiring or constructing, any permanent improvement which such subdivision is authorized to acquire or construct. But no subdivision or other political taxing unit shall create or incur any indebtedness for current operating expenses, except as provided in Sections 2293-3, 2293-4, 2293-7 and 2293-24 of the General Code. The estimate of the life of permanent improvements proposed to be acquired, constructed, improved, extended or enlarged from the proceeds of any bonds shall be made in any case by the fiscal officer of the subdivision and certified by him to the bond-issuing authority and shall be binding upon such authority."

Both of these sections are parts of the Uniform Bond Act, passed by the 87th General Assembly and found in 112 O. L., commencing at page 364. It is also well to call attention to the following definition contained in paragraph (e) of Section 2293-1, General Code, also contained in the Uniform Bond Act:

"(e) 'Permanent improvement' or 'improvement' shall mean any property, asset or improvement with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for highway purposes shall be held to include the resurfacing but not the ordinary repair of highways."

Consideration of these statutory provisions leads me to the conclusion that a municipal corporation may issue bonds for the purpose of installing buckets in sewer catch basins in the event that this class of equipment has an estimated life of more than five years. The general authority of Section 2293-2, General Code, to issue bonds for any permanent improvement, coupled with the definition of that term as including property with an estimated life or usefulness of five years or more, would seem to render this conclusion inescapable.

The statutory provisions would apparently also require your second question to be answered in the affirmative. The reconstruction of sewer catch basins is apparently included within the definition of the term "permanent improvement," as defined in Section 2293-1 of the Code, provided that the estimated life or usefulness of such reconstruction is five years or more. With this qualification, therefore, I am of the opinion that a municipal corporation may legally issue bonds for the purpose of reconstructing sewer catch basins. It should, however, be borne in mind that in order to authorize the issuance of bonds for this purpose the improvement must be a reconstruction and not merely a repair. The line of demarcation is not clear and the facts in the specific case would govern.

You are accordingly advised that a municipal corporation may issue bonds for the purpose of installing buckets in sewer catch basins and also for the purpose of reconstructing sewer catch basins in the event that each class of such improvements has an estimated life or usefulness of five years or more.

Respectfully,
EDWARD C. TURNER,
Attorney General.