

General Code, and that the same is in conformity with the provisions of said section and of other sections of the General Code relating to leases of this kind.

Said lease is accordingly hereby approved by me as to legality and form, and I have endorsed my approval upon said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2992.

APPROVAL, BONDS FOR THE FAITHFUL PERFORMANCE OF THEIR
DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTORS—H. S.
SCHOONOVER—FRANK W. TURNER—WM. F. HEHR.

COLUMBUS, OHIO, February 25, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted three bonds, each in the penal sum of \$5,000.00, with sureties as indicated, to cover the faithful performance of the duties of the officials as hereinafter listed:

- H. D. Schoonover, Resident District Deputy Director in Morrow County
—Fidelity and Deposit Company of Maryland.
- Frank W. Turner, Resident District Deputy Director in Fayette County
—The Fidelity and Casualty Company of New York.
- Wm. F. Hehr, Resident District Deputy Director in Wyandot County—
The Glens Falls Indemnity Company of Glens Falls, New York.

Finding said bonds to have been properly executed, I have accordingly approved the same as to form, and return them herewith.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2993.

SCHOOL BOARD—MAY BORROW MONEY IN ANTICIPATION OF
TAXES—WHAT OBLIGATION MAY BE PAID.

SYLLABUS:

A school board may borrow money in anticipation of taxes, by authority of Section 2293-4, General Code, and use the money to pay any valid and subsisting obligations of the board, whether those obligations are incurred within the fiscal year in which the money is borrowed or during previous fiscal years.

COLUMBUS, OHIO, February 25, 1931.

HON. CAMERON MEACHAM, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion in answer to the following question:

“Can a school board borrow money in anticipation of taxes to pay bills accumulated in the previous year?”

The statute authorizing the taxing authority of any subdivision, which would include a board of education, to borrow money in anticipation of taxes, is Section 2293-4, General Code, which reads as follows:

"In anticipation of the collection of current revenues in and for any fiscal year, the taxing authority of any subdivision may borrow money and issue notes therefor, but the aggregate of such loans shall not exceed one-half of the amount estimated to be received from the next ensuing semi-annual settlement of taxes for such fiscal year as estimated by the budget commission, other than taxes to be received for the payment of debt charges, and all advances. The sums so anticipated shall be deemed appropriated for the payment of such notes at maturity. The notes shall not run for a longer period than six months and the proceeds therefrom shall be used only for the purposes for which the anticipated taxes were levied, collected and appropriated. No subdivision shall borrow money or issue certificates in anticipation of the February tax settlement before January first of the year of such tax settlement."

It will be observed, from the foregoing statute, that money may be borrowed and notes issued in anticipation of tax settlements, and that the proceeds of said notes "shall be used only for the purposes for which the anticipated taxes were levied, collected and appropriated."

Any obligation that might be paid from the taxes when collected and distributed, may be paid from moneys borrowed in anticipation of those taxes, regardless of when the obligation was incurred. Obligations frequently are incurred before the beginning of the fiscal year, which are not payable until after the end of the fiscal year. Any obligation of a political subdivision which is a valid and subsisting obligation for which a judgment might be had, may be paid from current revenues. If it is such an obligation as requires the certificate of the fiscal officer, in compliance with Section 5625-33, General Code, it may be properly incurred, and frequently is, within a fiscal year, but is not payable until sometime during the ensuing fiscal year.

Valid obligations of a school district may be incurred without the certificate of the fiscal officer, as required by Section 5625-33, General Code. For instance, obligations for teachers' salaries and for foreign tuition are often incurred although there are no present moneys available for their payment. A judgment might be had in some cases against a school district after the end of the fiscal year in which the obligations for which the judgment is rendered had been incurred, and clearly such claims may be paid from revenues derived from tax settlements had in the fiscal year in which such judgments are, or might be rendered. If they may be paid from taxes distributed during any fiscal year, they may also be paid from moneys borrowed in anticipation of those tax settlements.

In specific answer to your question, therefore, I am of the opinion that a school board may borrow money in anticipation of taxes, by authority of Section 2293-4, General Code, and use the money to pay any valid and subsisting obligations of the board, whether those obligations are incurred within the fiscal year in which the money is borrowed or during previous fiscal years.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2994.

APPROVAL, BONDS OF JACKSON TOWNSHIP RURAL SCHOOL DISTRICT, STARK COUNTY, OHIO—\$80,000.00.

COLUMBUS, OHIO, February 25, 1931.

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