

by way of specific answer to your question, I am of the opinion that the person referred to in your communication, may be legally elected to the particular office in question if a sufficient number of the electors of the municipality vote for him by writing in his name on the ballot carrying the names of the candidates for this office and by making a cross-mark before the name so written, as provided for by sub-section 6, of Section 4785-131, General Code, although such person was a candidate for the nomination for such office at said party primary election and was defeated. The conclusion here reached is supported in some measure by previous opinions of this office holding that although a person serving as a clerk or judge at an election may not be a candidate for an office to be filled at such election, such person may nevertheless be elected to an office at such election if a sufficient number of persons write in his name on the ballot for this purpose. See Opinions of the Attorney General for 1929, Volume 3, page 1922; Opinions of the Attorney General for 1917, Volume 3, page 2108. In this connection it is likewise noted that in an opinion of this office rendered under date of December, 1928, it was held that a person whose declaration of candidacy for nomination for a particular office at a primary election was rejected by the election board, might nevertheless be elected by having his name written in by the voters upon the ballot at the general election, if provision is made therefor by printing the designation of the office and providing spaces on the ballot in which the name could be written in and marked in the manner then provided by Section 5070, General Code, sub-section 6 of which was identical with sub-section 6 of Section 4785-131, General Code, above quoted. Opinions of the Attorney General for 1928, Volume 4, page 2831.

In conclusion, it may be noted that although sub-section 6, of Section 4785-131, General Code, provides that the elector shall make a cross-mark at the left of the name written in by him upon the ballot, it has been held that such ballot should properly be counted in favor of the person whose name has been written in for election to a particular office although the voter casting such ballot fails to add the cross-mark to the name written in upon the ballot so cast. *Board of Elections vs. Henry*, 25 O. A., 278.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3725.

COUNTY COMMISSIONERS—UNAUTHORIZED TO HAVE PUBLIC RECORDS PHOTOGRAPHED FOR SAFEKEEPING.

*SYLLABUS:*

*A board of county commissioners has no authority to purchase a process by which a miniature photographic reproduction of county records may be made for the purpose of preserving the same.*

COLUMBUS, OHIO, November 3, 1931.

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

GENTLEMEN:—This acknowledges receipt of your recent communication which reads:

“We are enclosing herewith a letter addressed to the Auditor of State involving authority of the County Commissioners to pay for having

the various *public records* photographed by the film process, the purpose being to preserve the records in case of the destruction of the originals by fire or other catastrophe. You are respectfully requested to furnish this department your written opinion upon the question contained in this letter."

The letter which is attached requests an opinion as to the legality of the purchase of a process which can photograph all records, documents, etc., on a small roll of film from which it is possible to produce prints.

A board of county commissioners has only such powers as are expressly granted by statute or necessary to carry the express powers into effect, 11 Ohio Jurisprudence 322. (Citing cases). This is particularly true of the power of county commissioners in their financial transactions. *State, ex rel. Menning*, 95 O. S. 97. It should be noted that the question involved herein is not one of the authority of the board of county commissioners to have public records copied for instant use but one of its authority to have a miniature photographic reproduction of such records made for the purpose of preserving the same.

An examination of the statutes of Ohio reveals that while in several instances authority is given to various county officers to have public records of the county recopied (Section 2493, General Code, allowing county commissioners to have worn records transcribed; Section 2774, General Code, recorder to transcribe worn records, etc.) and that under certain conditions such copying or recording may be done by photographic process (Section 32-1, General Code), there exists no statutory authority for a board of county commissioners to have public records of a county copied for the purpose of preservation.

In view of the foregoing, I am of the opinion that a board of county commissioners has no authority to purchase a process by which a miniature photographic reproduction of county records may be made for the purpose of preserving the same.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3726.

INDIGENT FEMALE—DUTY OF TOWNSHIP OR MUNICIPAL CORPORATION TO FURNISH MEDICAL RELIEF—MAY BE REIMBURSED FROM COUNTY OF LEGAL SETTLEMENT.

SYLLABUS:

1. *Where an indigent woman is about to be confined, and is not in the county of her legal settlement, it is the duty of the authorities of the township or municipal corporation where she is found to furnish the services of a physician under section 3480 of the General Code.*

2. *Where such relief is given, the subdivision furnishing the same may be reimbursed from the county in which such person has a legal settlement in the manner set forth in section 3484-2 of the General Code.*

COLUMBUS, OHIO, November 3, 1931.

HON. GEORGE S. MIDDLETON, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent letter which reads:

"The Township Trustees of Zane Township, Logan County, Ohio.