

3734.

SCHOOL BUILDING—QUESTION OF BOND ISSUE FOR CONSTRUCTION THEREOF MAY BE SUBMITTED TO ELECTORS ONLY AT GENERAL NOVEMBER ELECTION—WHEN—CENTRALIZATION OF SCHOOLS QUESTION SUBMITTED WHEN.

SYLLABUS:

1. *The question of issuing bonds for the construction of a school building for a school district, the building or buildings of which have not been destroyed by fire or other casualty as provided in Section 2293-22, General Code, may be submitted to the electors at a general November election only, except in case it is proposed to issue bonds for the purpose of participating in federal aid for such project as provided by the National Recovery Act or the Federal Emergency Relief Administration under Amended Senate Bill No. 28 of the second special session of the 90th General Assembly, as amended by Senate Bill No. 102 of the second special session of the 90th General Assembly.*

2. *The question of centralization of schools may be submitted to the electors of a rural school district at either a general or special election called for that purpose, as authorized by Section 4726, General Code.*

COLUMBUS, OHIO, January 3, 1935.

HON. GEORGE W. McDOWELL, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“May I have your opinion upon the following:—

The board of education of H. Township Rural School District proposes to centralize their schools of said district and to call a special election for the purpose of voting upon the proposition of centralization. At the same time said board of education proposes to build a new school building at a central location in the township to take care of the needs of the district when the same has been centralized. Said board desires the question of issuing bonds for the aforesaid purpose be submitted to the voters also at a special election called for that purpose. The one room school buildings in said township are at this time in fair condition and none of them have been wholly or partially destroyed by fire or other casualty.

I have advised the board that the question of issuing bonds for the construction of the proposed new school building must be submitted at a general election. The board members or some of them have been informed that such questions have recently been voted upon at special elections called for the purpose in nearby counties.

QUESTION:—May the question of issuing bonds for the purpose of constructing a new school building for the purpose above mentioned be submitted to the electors of the district at a special or primary election?

May the question of centralization be presented to the electors of the district at a special election called for that purpose?”

Under the general provisions of the Uniform Bond Act, the question of

issuing bonds may only be submitted to the electors at the regular November election except pursuant to consent of the Tax Commission when it is necessary to rebuild or repair public property wholly or partially destroyed by fire or other casualty or to build a new similar property in lieu of repairing or rebuilding such property. Section 2293-22, General Code. Since you state that the condition prevailing in the school district in question does not come within the exception provided in this last mentioned section, if bonds are to be issued under the Uniform Bond Act for the purpose of constructing a new school building pursuant to vote of the electors, it is obvious that the question may only be submitted at a November election.

The only exception provided whereby a board of education of a school district may submit to the electors of such district the question of the issuance of bonds for the construction of a new school building, is contained in Amended Senate Bill No. 403, passed at the regular session of the 90th General Assembly, 115 O. L. 601; as amended by Amended Substitute Senate Bill No. 38, passed at the first special session of the 90th General Assembly September 20, 1933; as amended by Amended Senate Bill No. 28, passed at the second special session of the 90th General Assembly March 8, 1934; as amended by Senate Bill No. 102, passed by the second special session of the 90th General Assembly December 7, 1934. This act provides certain exceptions to the Uniform Bond Act, enabling subdivisions to issue bonds for the purpose of participating in the federal aid provided by the National Recovery Act and the Federal Emergency Relief Administration. Section 6 thereof provides as follows:

“When and if the conditional approval by the proper federal authorities or duly authorized representative thereof shall have first been obtained for the project the provisions of section 2293-22 of the General Code, requiring the question of the issue of bonds to be submitted to popular vote only at a November election, shall be waived and such question may be submitted with the consent of the tax commission of Ohio to a popular vote at a primary election or at a special election called for that purpose.”

With respect to the matter of submitting to the electors the question of centralization, such question may be submitted at either a general or special election, in view of the provisions of section 4726, General Code.

Specifically answering your question, it is my opinion that:

1. The question of issuing bonds for the construction of a school building for a school district, the building or buildings of which have not been destroyed by fire or other casualty as provided in Section 2293-22, General Code, may be submitted to the electors at a general November election only, except in case it is proposed to issue bonds for the purpose of participating in federal aid for such project as provided by the National Recovery Act or the Federal Emergency Relief Administration under Amended Senate Bill No. 28 of the second special session of the 90th General Assembly, as amended by Senate Bill No. 102 of the second special session of the 90th General Assembly.

2. The question of centralization of schools may be submitted to the

electors of a rural school district at either a general or special election called for that purpose, as authorized by Section 4726, General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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3735.

COURT COSTS—ASSESSMENT AND COLLECTION THEREOF STATUTORY—IN CIVIL ACTION NOT LIEN ON REAL ESTATE OF PARTIES PRIOR TO RENDITION OF JUDGMENT.

*SYLLABUS:*

1. *The assessment and collection of court costs is entirely statutory and there is no statutory provision whereby court costs accruing in a civil action are made a lien on the real estate of the parties to the action prior to the rendition of a judgment for the costs in favor of the successful party and the dormancy of the judgment is governed by the general provisions of law relating to dormancy of judgments.*

2. *Under and by virtue of section 3028 of the General Code, the clerk of courts is authorized to issue an execution against the parties to a civil action for the collection of court costs for which each party is responsible to pay. There is no time limitation provided by law within which the execution may issue. (1918 Attorney General's Opinion number 1322, approved and followed.)*

COLUMBUS, OHIO, January 3, 1935.

HON. JESSE H. LEIGHNINGER, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads as follows:

“It is our understanding that court costs become a lien on the real property of the plaintiff and defendant at the time such costs accrue. Under the statute when judgment is rendered the total costs would become a lien on the property of the party against whom judgment is rendered. Would you kindly give us your opinion as to whether or not the costs which are a lien against the party making them are subject to the six year statute of limitations, and whether judgment for costs becomes dormant and the lien released if levy of execution is not made within the five year period.”

You do not state in your inquiry whether or not the costs have been incurred in both criminal and civil cases but I assume for the purpose of this opinion that the costs involved have been incurred in a civil action.

The allowance of certain items of expense as court costs are purely statutory and the collection of same is governed by statute. It is stated in 11, O. Jur. 11 as follows:

“Costs, as such, were unknown at common law. Amercement was the nearest approach thereto. If the plaintiff failed in his action,