

You have submitted encumbrance estimates which contain the certificate of the Director of Finance to the effect that funds are available for the payment of rentals for at least a month of the leases, which is believed to be sufficient compliance with the statutes.

Finding said leases in proper legal form, I hereby approve them as to form and return them herewith.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4748.

UNIFORM BOND ACT—APPLICABLE TO ISSUANCE OF
NOTES BY TOWNSHIP TRUSTEES PURSUANT TO
SECTION 7201, G. C.

SYLLABUS:

The provisions of the Uniform Bond Act apply to the issuance of notes authorized by Section 7201, General Code, and such notes cannot be issued by the township trustees unless such issuance is authorized by a vote of the electors of the township in the manner set forth in the Uniform Bond Act.

COLUMBUS, OHIO, October 2, 1935.

HON. GEORGE W. SECREST, *Prosecuting Attorney, Warren, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication which reads as follows:

“Section 7201 of the General Code authorizes township trustees to purchase road machinery and equipment upon the following terms: not less than one-third of the purchase price in cash, and the remainder not more than one-third within one year and not more than one-third within two-years from the date of purchase.

This statute further authorizes the issuance of notes of the township covering these deferred payments.

The following questions have arisen in connection with the issuance of these notes on which we desire your opinion:

(1) Do the provisions of the Uniform Bond Act apply to the issuance of these notes?

(2) If so, must the notes be authorized by a vote of the electors of the township?”

Section 7201, General Code, reads as follows:

“County commissioners and township trustees, in the purchase of machinery, tools, trucks and other equipment for use in constructing, maintaining and repairing roads, shall be authorized to purchase such machinery, tools, trucks and equipment upon the following terms, to wit: not less than one-third of the purchase price thereof shall be paid in cash, and of the remainder not more than one-third may be paid at any time within one year from the date of purchase and not more than one-third at any time within two years from the date of purchase. Such commissioners or trustees shall be authorized to issue to the purchaser the notes of the county or township, as the case may be, signed by the commissioners or trustees and attested by the signature of the county auditor or township clerk, and covering such deferred payments and payable at the times above provided, which notes may bear interest at not to exceed six per cent per annum. In the legislation under which such notes are authorized, the county commissioners or township trustees shall make provision for levying and collecting annually by taxation an amount sufficient to pay the interest, if any, thereon and to provide a sinking fund for the final redemption of such notes at maturity. The provisions of section 5660 of the General Code shall apply only to such portion of the purchase price of such machinery, tools, trucks or equipment as is to be paid in cash.

The power herein conferred on township trustees shall be exercised by them only with the consent to and approval of such purchase and the terms thereof by the county commissioners of the county.”

Section 2293-17, General Code, which is a later section than Section 7201, provides as follows:

“The net indebtedness created or incurred by a township, exclusive of the bonds excepted in section 2293-13 of the General Code, and exclusive of county bonds issued in anticipation of township tax levies shall never exceed two per cent of the total value of all property in such township as listed and assessed for taxation; and no such indebtedness with said exceptions shall be incurred unless authorized by vote of the electors.”

The exceptions referred to in the above section contained in Section 2293-13, General Code, are as follows:

"Bonds or notes issued in anticipation of the levy or collection of special assessments, either in original or refunded form, county bonds issued in anticipation of the levy or collection of township taxes, notes issued in anticipation of the collection of current revenues, notes issued for emergency purposes under section 2293-7 of the General Code or heretofore issued under sections 4450, 5629, or 7630-1 of the General Code, and bonds issued to pay final judgments shall not be considered in calculating the net indebtedness."

It is seen, therefore, that notes authorized by Section 7201 are not excepted in determining the net indebtedness. Consequently, under Section 2293-17, General Code, no such indebtedness can be incurred by the township trustees unless authorized by a vote of the electors of the township.

In *Opinions of the Attorney General for 1931*, Vol. I, page 147, the following is said in reference to Section 7201:

"It is obvious that the authority in the foregoing section to issue notes and levy a tax to meet the interest and principal requirements thereon may not be construed as other than authority to incur indebtedness. The provisions of the foregoing section in this respect have been modified somewhat by the uniform bond act.

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Manifestly townships are no longer authorized to incur indebtedness except pursuant to vote of the electors as provided in the uniform bond act."

I am of the view, therefore, that the provisions of the Uniform Bond Act apply to the issuance of notes authorized by Section 7201, General Code, and that such notes cannot be issued by the township trustees unless such issuance is authorized by a vote of the electors of the township in the manner set forth in the Uniform Bond Act.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4749.

APPROVAL, BONDS OF MEIGS COUNTY, OHIO, \$25,814.00
(LIMITED).

COLUMBUS, OHIO, October 2, 1935.

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