

Tax Act, but deliveries made pursuant to such contract constitute taxable sales when made or when paid for as provided in section 3 thereof.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3962.

COUNTY COMMISSIONERS—NOT REQUIRED TO ADVERTISE FOR BIDS
BEFORE LETTING CONTRACTS FOR PURCHASE OF EQUIPMENT FOR
COUNTY OFFICES AND JAIL.

SYLLABUS:

There is no requirement that county commissioners shall advertise for bids before letting contracts for the purchase of any equipment, authorized by the statute, for offices of the county officers and the county jail.

COLUMBUS, OHIO, February 23, 1935.

HON. PAUL D. MICHEL, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR:—I have your letter of recent date, which reads as follows:

“Will you kindly give me your opinion on the following matters:

1. Have the County Commissioners the right to purchase a refrigerator for the County Jail, the estimated cost of which is \$300.00 without first advertising for bids on the same?
2. Have the County Commissioners the right to purchase office supplies, fixtures, equipment, etc., costing more than \$500.00 without first advertising for bids on the same?

Relative to these questions I have been unable to find any statute on the subject other than sections 2353 and 2354 of the General Code of Ohio relative to the cost of public buildings, bridges and bridge substructures which I do not believe applies in this case.

I have found in Volume 63, Laws of Ohio, of the year 1866, Page 32 the following:

‘Section 2: That the County Commissioners of any county shall not make, suffer or cause to be made any purchase or contract for any outlay of money for or on behalf of their county, the estimated value or expense of which shall exceed \$500.00 without first causing 20 days notice to be given in one or more newspapers of general circulation in the county that proposals will be received for the performance of any job or work or for the furnishing of any goods, wares, merchandise or material for said county * * *.’

Is this statute or any part of it still the law in Ohio?”

The statute which you quote in your letter, namely, section 2 of an act passed by the legislature on March 9, 1866 (63 Ohio Laws, 32, entitled “An act relating to the duties of county commissioners, and amending section two (2) of an act passed April 8, 1856,” (S. & C., page 250) was expressly repealed by section 7437 of the Revised Statutes of 1880, passed by the 63rd General Assembly, on June 20, 1879, and effec-

tive January 1, 1880. Such Revised Statute 7437 (Revised Statutes of Ohio, 1880, Volume 2, page 1739), reads in part:

“Sec. 7437. The following acts and parts of acts are hereby repealed:

* * *

* * *

439. The act of March 9, 1866, entitled “an act relating to the duties of county commissioners, and amending section two (2) of an act passed April 8, 1856.

* * *

* * *”

An examination of the present General Code of Ohio, adopted in 1910 and amended and supplemented since such time, does not reveal any statute now in existence containing matter similar to that contained in the statute you quote, but which has been repealed.

In my opinion No. 2341, rendered March 3, 1934, I stated at page 6 of said opinion:

“There is no general statute providing for advertisement and competitive bids for the purchase of all real estate and *supplies* for the use of a county or any public institution or department therein.”

In the case of municipalities, sections 4221, 4328 and 4371, General Code, provide that all contracts involving expenditures exceeding \$500.00 shall be let after advertisement and competitive bidding; however, there is no similar general statute applicable to counties and county commissioners.

Undoubtedly, county commissioners are given general authority to purchase equipment, stationery and postage for county officers, by virtue of section 2419, General Code, reading as follows:

“A court house, jail, public comfort station, offices for county officers and an infirmary shall be provided by the commissioners when in their judgment they or any of them are needed. Such buildings and offices shall be of such style, dimensions and expense as the commissioners determine. They shall also provide all the equipment, stationery and postage, as the county commissioners may deem necessary for the proper and convenient conduct of such offices, and such facilities as will result in expeditious and economical administration of the said county offices. They shall provide all room, fire and burglar-proof vaults and safes and other means of security in the office of the county treasurer, necessary for the protection of public moneys and property therein.”

It is to be noted that the foregoing section makes no provision for competitive bidding as a condition precedent to the county commissioners exercising the powers therein contained.

Likewise there are several specific statutes, as sections 2786, 2832, 2872 and 10501-4, General Code, authorizing equipment to be furnished for the office of the county surveyor, sheriff, clerk of the common pleas court and probate judge, respectively. None of these statutes provides for competitive bidding.

Of course, there may be a few special instances wherein there is requirement for competitive bidding by the county commissioners under certain conditions. However, I presume by your second question that you have reference to “office supplies, fixtures and equipment” for the county officers, purchased by virtue of authority of the sections of the General Code mentioned above.

With reference to your first question, without passing on the point of whether or not there is statutory authority for the county commissioners to purchase a refrigerator for the county jail as you do not ask relative thereto, I am unable to find any statutory requirements for competitive bidding that could require competitive bidding for the purchase of same.

Sections 2353 and 2354, General Code, mentioned in your communication, do not appear to have any application to the questions you present, for the reason that such sections only apply to the erection of a public building, bridge or bridge substructure, or of making an addition to or repair thereof, and your matter evidently does not involve the furnishing of materials and labor for the erection of a public building, bridge or bridge substructure, or the making of an addition to or repair thereof.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3963.

APPROVAL, BONDS OF MENTOR RURAL SCHOOL DISTRICT, LAKE COUNTY, OHIO, \$8,500.00

COLUMBUS, OHIO, February 25, 1935.

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

3964.

APPROVAL, BONDS OF LIMA CITY SCHOOL DISTRICT, ALLEN COUNTY, OHIO, \$74,000.00.

COLUMBUS, OHIO, February 25, 1935.

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

3965.

APPROVAL, BONDS OF ROME RURAL SCHOOL DISTRICT, LAWRENCE COUNTY, OHIO, \$2,846.63.

COLUMBUS, OHIO, February 25, 1935.

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