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BOARD OF TOWNSHIP TRUSTEES AUTHORIZED TO PURCHASE AND MAINTAIN NECESSARY FIRE-FIGHTING EQUIPMENT AND FINANCE SUCH PURCHASE OVER PERIOD OF FOUR YEARS BY ISSUANCE OF NOTES. §505.37, R.C. OPINION NO. 1415, OAG FOR 1952, OVERRULED.

SYLLABUS:

Section 505.37, Revised Code, authorizes a board of township trustees to purchase or construct the necessary buildings and sites for the maintenance and protection of fire-fighting equipment for such township and to finance such purchase over a period of four years by the issuance of notes. Opinion No. 1415, Opinions of the Attorney General for 1952, overruled.

Columbus, Ohio, October 28, 1961

Hon. Robert Webb, Prosecuting Attorney
Ashtabula County, Jefferson, Ohio

Dear Sir:

I have before me a copy of your request for my opinion, which request reads as follows:

"A Township in this County desires to issue Notes in the sum of \$35,000.00, to pay the cost of constructing a building to house fire equipment owned by the township.

“There is presently a voted levy outside the ten mill limitation, the proceeds of which will be sufficient to retire the Notes proposed to be issued at maturity.

“The levy was voted for the purpose of ‘providing protection against fire, and to provide and maintain fire apparatus, appliances, buildings and sites therefor.’”

The authority of a board of township trustees to issue notes to finance the cost of constructing a building to house fire equipment owned by the township is provided in Section 505.37, Revised Code. This section reads, in part, as follows:

“* * *

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“The board of any township or fire district created by such board under sections 505.37 to 505.44, inclusive, of the Revised Code or the legislative authority of any municipal corporation, may purchase the necessary fire-fighting equipment, buildings and sites for such township, fire district, or municipal corporation and pay for it over a period of four years. Such board or legislative authority may issue the notes of the township, fire district, or municipal corporation, signed by the board or legislative authority and attested by the signature of the township or municipal clerk, covering such deferred payments and payable at the times provided, which notes may bear interest not to exceed six per cent per annum, and shall not be subject to sections 133.01 to 133.65, inclusive, of the Revised Code. One fourth of such purchase price shall be paid at time of purchase, and the remainder of the purchase price shall be covered by notes maturing in two, three, and four years respectively. Such notes shall be offered for sale on the open market or given to the vendor if no sale is made.”

Prior to the most recent amendment of this section, the authority of a board of township trustees to finance the cost of fire protection by four-year notes was limited to the purchase of “the necessary fire-fighting equipment for such township.” This statute was construed by one of my predecessors in Opinion No. 1415, Opinions of the Attorney General for 1952, page 342. The syllabus of that opinion reads as follows:

“Township trustees do not have the power to use the method of financing prescribed in Section 3298-54, General Code, by issuing four-year notes of the township, to purchase land and buildings to care for and maintain fire fighting equipment, such authority being limited to the purchase of fire fighting equipment.”

The statute construed in Opinion No. 1415, *supra*, was Section 3298-54, General Code, which became Section 505.37, Revised Code. This section was amended in 1955 apparently to cure the defect noted in Opinion No. 1415, *supra*. The sole effect of this amendment was to add the words "buildings and sites" to the authority of the board of township trustees to purchase by way of four-year notes. It would now seem apparent from a perusal of this section, and a review of its legislative history, that boards of township trustees now have the power to finance the purchase, including by clear implication the construction of necessary buildings for the housing and maintenance of necessary fire apparatus and appliances.

You have stated that there is already in existence in the township described in your request a voted levy outside the ten-mill limitation which was voted for the specific purpose of "providing protection against fire, and to provide and maintain fire apparatus, appliances, buildings and sites therefor." As the proceeds of this levy are apparently sufficient to retire the notes at maturity, there would appear to be no legal bar to the issuance of such notes and their retirement by means of the voted levy.

It is, therefore, my opinion and you are accordingly advised that Section 505.37, Revised Code, authorizes a board of township trustees to purchase or construct the necessary buildings and sites for the maintenance and protection of fire-fighting equipment for such township and to finance such purchase over a period of four years by the issuance of notes. Opinion No. 1415, Opinions of the Attorney General for 1952, overruled.

Respectfully,

MARK MCELROY
Attorney General