

the fiscal year in which the contract is made), has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances."

The certificate referred to in clause (d), quoted from above, does not apply to current pay rolls, provided the expenditure is made upon the authority of a proper appropriation for such purpose. Section 5625-38, General Code. There clearly would be no legal obligation on the part of the county to pay these salaries. In an opinion to you, dated May 27, 1933, I held:

"In the event no appropriation is made for the payment of the salaries of policemen and firemen in a city operating upon the general laws the said policemen and firemen have no claim against said municipality for their salaries, although they continue in the service."

The question now arises as to whether the county commissioners have the authority to pay such salaries if they desire to do so. One of the main purposes of the budget act is to compel political subdivisions to live within their income. The appropriations for a year must not exceed the estimated receipts for that year, and all expenditures for that year must be within those appropriations. To allow an appropriation to be made in 1933 for payment of salaries for services rendered in 1932 when there was no appropriation therefor, would, in my opinion, violate both the spirit and letter of this act. To say that obligations can thus be incurred without any appropriation therefor, to be paid by appropriations in subsequent years, would be to permit a political subdivision to create indebtedness for current operating expenses in one year far in excess of its income for that year.

I am of the opinion therefore that county commissioners are not authorized to make an appropriation in 1933 for the purpose of paying the employes of a county surveyor for services rendered in the last half of December, 1932, when there was no appropriation therefor at the time those services were rendered.

Respectfully,

JOHN W. BRICKER,
Attorney General.

957.

APPROVAL, NOTES OF NELSONVILLE CITY SCHOOL DISTRICT,
ATHENS COUNTY, OHIO—\$8,500.00.

COLUMBUS, OHIO, June 16, 1933.

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