

You are therefore specifically advised that when plans are prepared and approved, in pursuance of the provisions of Sections 2314, et seq., of the General Code, they shall be deposited and safely kept in the office of the Auditor of State, as the property of the State, and there is no provision of law authorizing the Auditor of State to permit said plans to be withdrawn.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1566.

ELECTION LAW—HOW COMPENSATION OF DEPUTY CLERK AND ASSISTANTS IN BOARD OF ELECTIONS PAID BY COUNTY—HOW EXPENSES OTHER THAN SALARIES CERTIFIED AND PAID—REGISTRATION EXPENSES PAID BY COUNTY AND CHARGED BACK AGAINST SUBDIVISION.

SYLLABUS:

1. *The entire compensation of the deputy clerk and other assistants and employes in the office of the board of elections must, under the provisions of Section 4875-20, General Code, be paid by the county in the manner therein provided.*
2. *The expenses of the board of elections in each county shall be paid from the county treasury and payments made upon vouchers of the board certified to by its chairman or acting chairman and the clerk or deputy clerk upon warrants of the county auditor.*
3. *Such registration expenses as are chargeable to subdivisions under the provisions of Section 4785-20, General Code, should be paid by the county and the amount so paid withheld by the county auditor from the moneys payable to such subdivisions at the time of the next tax settlement.*

COLUMBUS, OHIO, February 28, 1930.

HON. HOWARD M. NAZOR, *Prosecuting Attorney, Jefferson, Ohio.*

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

“I would appreciate very much your opinion on the following matters:

In Ashtabula County, the board of elections has for many years elected a deputy clerk and an assistant known as a deputy registration clerk, both the deputy and deputy registration clerk having headquarters in the office of the board in the city of Ashtabula, a registration city. Last May, H. K. Brainard was elected deputy clerk and Helen G. Humphrey was elected as Deputy Registration Clerk, each to serve for one year. Their compensation was at the time of their election, fixed by the board as follows: H. K. Brainard to receive \$400.00 a year and Helen G. Humphrey \$200.00 a year. By virtue of Section 4877 of the old Code, this compensation was equally divided between the city and the county. The appointments were also made by virtue of Section 4877 of the old Code. On January 1, 1930, this section was superseded by the new election code and particularly by Sections 4785-15 and 4785-20.

Under the old Code, all other election expenses except salaries were certified by the board to the board of county commissioners for their approval and then paid by warrants of the auditor. The old sections of the Code,

4920, 4921, 4946, 4991, 5052 and 5053 have been superseded by Section 4785-20. All bills connected with registration and furnishing and equipping the polling places in the city of Ashtabula have been paid, under the old Code, upon vouchers certified by the board and directed to the city auditor.

This state of facts raises the following questions :

(1) Is the city of Ashtabula required by the new Code to pay any part of the salaries of the deputy clerk and the deputy registration clerk?

(2) If question No. 1 is answered in the affirmative, should such salaries be paid upon warrants of the city auditor, or should they be paid upon warrants of the county auditor and charged back against the city?

(3) Should county election expenses other than salaries be certified by the board upon vouchers to the county commissioners, or should the vouchers be addressed to the county auditor?

(4) Does Subdivision 'D' of Section 4785-20 mean that registration expenses should be paid directly by the city, or should they be paid by the county and charged back against the city?"

Section 4785-15, General Code, to which you refer, provides that boards of elections may, when necessary, appoint a deputy clerk and one or more assistant clerks and other employes.

Section 4785-20, General Code, relates to the expenses of board of elections in each county and their apportionment. This section is as follows :

"The expenses of the board in each county shall be paid from the county treasury in pursuance of appropriations by the county commissioners, in the same manner as other expenses are paid. If the county commissioners fail to appropriate an amount sufficient to provide for the necessary and proper expenses of the board, the board may apply to the Court of Common Pleas within the county, which shall fix the amount necessary to be appropriated and such amount shall be appropriated. Payments shall be made upon vouchers of the board certified to by its chairman or acting chairman and the clerk or deputy clerk, upon warrants of the auditor.

Such expenses shall be apportioned among the county and the various subdivisions as hereinafter provided, and the amount chargeable to each subdivision shall be withheld by the county auditor from the monies payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year the board shall submit to the taxing authority of each subdivision an estimate of the amount to be withheld therefrom during the next fiscal year.

a. The entire compensation of members of the board and of the clerk, deputy clerk and other assistants and employes in the board's offices; the expenditures for the rental, furnishing and equipping of the offices of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care and custody of polling places, booths, guard rails and other equipment for polling places; the cost of poll books, tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section, shall be paid in the same manner as other county expenses are paid.

b. The compensation of judges and clerks of elections; the cost of renting, moving, heating and lighting polling places and of placing and removing ballot boxes and other fixtures and equipment thereof; the cost of

printing and delivering ballots, cards of instruction and other election supplies; and all other expenses of conducting primaries and elections in the odd numbered years shall be charged to the subdivisions in and for which such primaries or elections are held.

c. The cost of all special elections shall be charged against the subdivisions for and in which such elections are held.

d. The compensation of registrars; the cost of renting, heating and lighting registration places; the cost of the necessary books, forms and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists; shall be charged to the subdivisions in which such registration is held."

In considering your first question, your attention is directed to the fact that it is expressly provided in Section 4785-20, supra, that the expenses of the board in each county "shall be apportioned among the county and the various subdivisions as hereinafter provided." It is evident that this section purports to detail the specific expenses of the board which shall be borne by the county, and which expense shall be borne by political subdivisions of the county. Express provision is made in paragraph a of this section as to the payment of the salaries of the deputy clerk and other assistants and employes in the board's offices. This paragraph sets forth the expenses which shall be paid by the county and classifies such expenses in six groups separated by semicolons. They are, first, "The entire compensation of members of the board and of the clerk, deputy clerk and other assistants and employes in the board's offices;" second, "the expenditures for the rental, furnishing, and equipping of the offices of the board and for the necessary office supplies for the use of the board;" third, "the expenditures for the acquisition, repair, care and custody of polling places, booths, guard rails and other equipment for polling places;" fourth, "the cost of poll books, tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment;" fifth, "the cost of all elections held in and for the state and county;" and sixth, "and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section." It is only in the sixth classification of expenses under this paragraph that any mention is made of political subdivisions within the county, and this reference is only for the purpose of providing for such expenses as are not chargeable to such subdivisions in Section 4785-20.

In specific answer to your first question, I am of the opinion that the entire compensation of the deputy clerk and other assistants and employes in the office of the board of elections must, under the provisions of Section 4785-20, General Code, be paid by the county in the manner therein provided.

In view of my conclusion as to your first question, your second question need not be answered.

The answer to your third question is contained in the first paragraph of Section 4785-20, supra, wherein it is provided that the expenses of the board of elections in each county shall be paid from the county treasury and payments made upon vouchers of the board certified to by its chairman or acting chairman and the clerk or deputy clerk upon warrants of the auditor. There is no provision for certifying expense vouchers to the county commissioners.

Coming now to your fourth question, paragraph d of the section here under consideration provides certain registration expenses which shall be charged to the subdivision in which such registration is held. There is no provision in this paragraph as to whether or not this expense shall be paid directly in the first instance from the city or the county. It is merely provided therein that certain registration expenses "shall be charged to the subdivision in which such registration is held." The first paragraph of the section provides that the expenses of the board shall be paid from

the county treasury in the same manner as other expenses are paid. In the second paragraph, it is expressly set forth that such expenses as are chargeable to subdivisions within the county "shall be withheld by the county auditor from the monies payable thereto at the time of the next tax settlement." It is obvious that if such expenses as are chargeable to such subdivisions had already been paid by the subdivision, the withholding of such expenses by the county auditor from the moneys payable to such subdivision at the time of the next tax settlement would result in the subdivisions paying double the amount chargeable to them.

In specific answer to your fourth question, I am of the opinion that such registration expenses as are chargeable to subdivisions under the provisions of Section 4785-20, General Code, should be paid by the county and the amount so paid withheld by the county auditor from the moneys payable to such subdivisions at the time of the next tax settlement.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1567.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND SAMUEL PLATO, LOUISVILLE, KENTUCKY, FOR CONSTRUCTION OF ARMORY AT XENIA, OHIO, AT AN EXPENDITURE OF \$45,500.00—SURETY BOND EXECUTED BY THE AETNA CASUALTY AND SURETY COMPANY.

COLUMBUS, OHIO, February 28, 1930.

HON. ARTHUR W. REYNOLDS, *Adjutant General of Ohio, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by and through Arthur W. Reynolds, Adjutant General of Ohio and Director of State Armories, and Samuel Plato of Louisville, Kentucky. This covers the construction and completion of a State Armory to be erected at Xenia, Ohio, and calls for an expenditure of forty-five thousand five hundred dollars (\$45,500.00).

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also submitted a certificate from the controlling board, signed by the secretary thereof, that in accordance with Section 2 of House Bill No. 513, and Section 11 of House Bill No. 510 of the 88th General Assembly, said board has properly consented to and approved the expenditure of the moneys appropriated by the 88th General Assembly for the purpose covered by this contract. In addition, you have submitted a contract bond upon which the Aetna Casualty and Surety Company appears as surety, sufficient to cover the amount of the contract. You have further submitted evidence indicating that plans were properly prepared and approved, notice to bidders was properly given, bids tabulated as required by law and the contract duly awarded. Also it appears that the law relating to the workmen's compensation act has been complied with.

Finding said contract and bond in proper legal form, I have this day noted