

3083.

BOARD OF HEALTH—PAYMENT OF ORDINARY EXPENSES—SUBDIVISION UNAUTHORIZED TO BORROW MONEY AND ISSUE NOTES FOR SUCH PURPOSE.

SYLLABUS:

A subdivision is not authorized, under the provisions of Section 2293-7, General Code, to borrow money and issue notes for the purpose of paying the ordinary expenses of a board of health.

COLUMBUS, OHIO, March 23, 1931.

DR. H. G. SOUTHARD, *Director of Health, Columbus, Ohio.*

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

“After investigation we find that one of the newly created cities is unable to finance the work of the board of health as required by statute. A board of health has been organized, but they have not employed a health commissioner or other assistants. We are informed that not more than \$500 can be made available to the board of health for its expense during the year 1931.

We have been asked to submit to you the query as to whether or not the city council may under the provisions of paragraph B of Section 2293-7, with the consent of the Tax Commission of Ohio, borrow money or issue notes to cover the ordinary expenses of the board of health.”

Section 2293-7, General Code, provides:

“If it is determined by the tax commission of Ohio that funds are not otherwise available, the taxing authorities may borrow money and issue notes:

(a) In case of epidemic or threatened epidemic, or during an unusual prevalence of a dangerous communicable disease, to defray those expenses which the local board of health deems necessary to prevent the spread of such disease.

(b) In case of the destruction of any bridge, road, school or public building, by fire, flood, or extraordinary catastrophe, to provide temporary facilities for bridge, road, school or building purposes.

(c) In case of a special election called after the adoption of the annual appropriation measure, to defray the expenses of such election.

Such notes shall mature one half on March first next following the next February tax settlement at which, in accordance with the ordinary budget procedure, a tax to pay such notes can be included in the budget and one half on the following September first, and a tax shall be levied to pay such notes, which tax shall be outside of all limitations of law.”

In your letter you refer to paragraph (b) of the foregoing section. I assume that your reference is to paragraph (a) thereof, since paragraph (b) contains no provisions touching your question. The foregoing section authorizes the taxing authorities of a subdivision to borrow money and issue notes for health purposes only in the event of an epidemic or threatened epidemic or in the event of the prevalence of a dangerous communicable disease. If any of such conditions prevail in a subdivision, then the Tax Commission has jurisdiction to determine whether or not funds to meet such an emergency are otherwise available. If, under such circumstances, the Tax Commission determines that funds are not otherwise available, the

amount of money that may be borrowed is limited to those expenses which the local board of health deems necessary to prevent the spread of such disease.

I am unable to read into the clear and express provisions of this section any authority for the borrowing of money to cover the ordinary expenses of a board of health and therefore advise that in my opinion such authority is not contained therein.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3084.

APPROVAL, CONTRACTS FOR ROAD IMPROVEMENTS IN SUMMIT
AND STARK COUNTIES.

COLUMBUS, OHIO, March 23, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

3085.

APPROVAL, BONDS OF MINSTER VILLAGE SCHOOL DISTRICT,
AUGLAIZE COUNTY, OHIO—\$88,000.00.

COLUMBUS, OHIO, March 24, 1931.

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

3086.

APPROVAL, BONDS OF ROME TOWNSHIP, ATHENS COUNTY, OHIO,
\$15,000.00.

COLUMBUS, OHIO, March 24, 1931.

Industrial Commission of Ohio, Columbus, Ohio.

3087.

SCHOOL SITES—SELECTION—POWERS OF BOARD OF EDUCATION
UNDER STATUTE DISCUSSED—RESIDENTS OF DISTRICT STILL
RETAIN RIGHT TO HAVE ANY CLOSED SCHOOL REOPENED
UPON PETITION.

SYLLABUS:

1. A board of education possesses the power to select school sites by force of Section 7620, General Code, and in the absence of abuse of discretion, fraud or collusion, the exercise of such power will not be interfered with by the courts.

2. The board of education of a rural or village school district may, by authority of section 7730, General Code, suspend any one or all the schools of the school district and provide for the assignment of the pupils attending such schools to one or more other schools of the district, subject to the rights of the patrons of;