

deposit with the Treasurer of State one hundred thousand dollars, as provided for in Section 710-150 of the General Code of Ohio.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1811.

DISAPPROVAL, BONDS OF CITY OF STEUBENVILLE, JEFFERSON COUNTY—\$16,600.00.

COLUMBUS, OHIO, April 24, 1930.

Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

Re: Bonds of City of Steubenville, Jefferson County, Ohio, \$16,600.00.

The transcript relative to the above bonds discloses that this purchase is a part of an issue of bonds in the aggregate amount of \$38,600.00, these bonds having been issued for the purpose of purchasing certain real estate in the City of Steubenville. The transcript discloses that bonds were authorized in the amount of \$40,600.00 for this purpose, and after having been offered to and rejected by the sinking fund trustees, they were advertised pursuant to the provisions of Section 2293-28, General Code, for three consecutive weeks commencing January 28, 1930. These bonds in the amount of \$40,600.00 appear to have been awarded on March 4, 1930. The transcript further discloses that subsequent to this award of bonds in the amount of \$40,600.00 and on March 18, 1930, council passed an ordinance, No. 5537, reducing the amount of the issue to \$38,600.00. There appears no evidence of a readvertisement of bonds in this last mentioned amount, and I accordingly assume that pursuant to advertisement and award of bonds in the amount of \$40,600.00, the city has issued to the high bidder bonds in the amount of \$38,600.00.

I am of the view that since Section 2293-28, General Code, providing for the advertisement of bonds of the various subdivisions of the state, requires that such advertisement shall state the amount of bonds to be sold, there is no authority for the sale of bonds in a different amount without readvertisement, and I am, therefore, of the opinion that this issue in the amount of \$38,600.00, of which the above purchase is a part, has not been sold pursuant to the requirements of the law. I, accordingly, advise you not to purchase these bonds.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1812.

MUNICIPALITY—AMOUNT OF FINAL JUDGMENTS INCLUDED IN GENERAL LEVY WITHIN FIFTEEN MILL LIMITATION—ANNUAL TAX BUDGET MUST SHOW AMOUNT REQUIRED FOR SUCH JUDGMENTS—BONDS ISSUABLE WITHOUT VOTE OF ELECTORS, IF SAID JUDGMENTS BASED ON NON-CONTRACTUAL OBLIGATIONS.

SYLLABUS:

1. *A subdivision should include in the general levy for current expenses the amount required for the payment of final judgments, and such levy is within the fifteen mill limita-*

tion. The annual tax budget prepared by the taxing authority of the subdivision must, under Section 5625-21, General Code, show the amounts required to pay final judgments.

2. If the judgments sought to be paid were rendered against the subdivision in actions for personal injuries or were based on other non-contractual obligations, then, and in that event, bonds may be issued to pay such final judgments without a vote of the electors, as provided in the Uniform Bond Act.

COLUMBUS, OHIO, April 25, 1930.

HON. LEE D. ANDREWS, *Prosecuting Attorney, Ironton, Ohio.*

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

“A question has been referred to me by the village of _____ in this county. Their tax duplicate is just a little over one and one-half million dollars. Their total levy within the fifteen mill limit is fourteen and nine-tenths mills. There are several judgments against the village aggregating about three thousand dollars which the mayor and the village council are anxious to pay but which they are unable to pay unless they can levy two mills on the tax duplicate, which they are afraid they are not able to do according to law. The only amount they are able to levy within the fifteen mill is one-tenth of one mill which would not pay the interest on the judgments.

Is there any section of law under Section 5649, et seq., or otherwise by which this two mills could be levied without a vote of the people? The entire council and all the officials of the village are anxious to make the levy but are under the impression that they are not allowed to do so and I cannot find any direct section allowing the levy. A levy of one mill would pay it in four installments but they are anxious to pay it in two.

I would be pleased to have your opinion or a letter from one of your staff on this point.”

Sections 5649-1, et seq., relating to the levy of taxes, were repealed by the 87th General Assembly, which enacted the so-called Budget Law, as contained in 112 Ohio Laws, being Sections 5625-1, et seq. Section 5625-5 provides that the taxing authority of a subdivision may include in the general levy for current expenses the amount required for the payment of judgments. Section 5625-6, General Code, authorizes a number of special levies which may be made within the fifteen mill limitation, and further provides:

“* * * Excepting the special levies authorized in this section any authority granted by provision of the General Code to levy a special tax within the fifteen mill limitation for a current expense shall be construed as authority to provide for such expense by the general levy for current expenses.”

Section 5625-7, General Code, is as follows:

“The taxing authority of any subdivision may make the following levies outside of the fifteen mill limitation and irrespective of all limitations on the tax rate:

(a) Tax levies for debt charges when such levies have, prior to the taking effect of this act, been excluded by the laws of the state or by vote of the

people from the limitation imposed by Section 5649-5b, and taxes authorized by the laws of the state, prior to the taking effect of this act, to be levied outside of the limitations imposed by Section 5649-5b of the General Code, in anticipation of which indebtedness has been incurred; but in either instance only until said indebtedness has been paid.

(b) Tax levies which, prior to the taking effect of this act, were excluded by vote of the people from the limitation imposed by Section 5649-5b, not exceeding the rate and the number of years authorized by such vote.

(c) Tax levies excluded by law from the fifteen mill limitation or hereafter authorized outside of said limitation by a vote of the people under the provisions of law applicable thereto.

(d) Tax levies under the provisions of Section 7639, but not to exceed one mill of said tax shall be outside the fifteen mill limitation."

The levy to pay the judgments to which you refer has apparently not been voted outside the fifteen mill limitation, and it is, therefore, obvious that such levy must be within this limitation.

Section 5625-21, General Code, provides that the annual tax budget must contain the "amounts required for the payment of final judgments". This budget, as prepared by the taxing authority, is subject to adjustment by the budget commission, which commission must bring the tax levies within the limitations of the Budget Law. If the requirements of the village in question are such that a levy to pay the judgments in question would seriously handicap the village, bonds may be issued for this purpose providing the judgments in question were rendered against the village in an action for personal injuries or based upon other non-contractual obligations.

Section 2293-3, General Code, being part of the Uniform Bond Act, provides as follows:

"When the fiscal officer of any subdivision certifies to the bond-issuing authority that, within the limits of its funds available for the purpose, the subdivision is unable to pay a final judgment or judgments rendered against the subdivision in an action for personal injuries or based on other non-contractual obligation, then such subdivision may issue bonds for the purpose of providing funds with which to pay such final judgment in an amount not exceeding the amount of the judgment or judgments together with the costs of suit in which such judgment or judgments are rendered and interest thereon to the approximate date when the proceeds of such bonds are available."

Section 2293-14, General Code, provides that the net indebtedness created or incurred by a municipal corporation without a vote of the electors shall never exceed one per cent of the total value of all property in such municipal corporation as listed and assessed for taxation, and that in ascertaining such limitation upon the net indebtedness which may be incurred without a vote of the electors, the bonds excepted in Section 2293-13, General Code, shall not be considered. Section 2293-13, General Code, specifically provides that bonds issued to pay final judgments shall not be considered in calculating the net indebtedness. It follows, therefore, that if the judgments under consideration were rendered against the village in an action for personal injuries or if they were based on other non-contractual obligations, bonds may be issued for the purpose of paying them without a vote of the electors. If this course of procedure should be followed, the bonds may mature over a period of five years as set forth in Section 2293-9. I take it from your letter that by distributing the charge over this period of time the judgments may be paid without seriously handicapping the village. Should the judgments in question be based on contractual obligations, there is, of course, no authority to issue bonds to pay them, and a tax levy must be made within

the fifteen mill limitation to pay them as provided in Section 5625-21, General Code.

Specifically answering your question, I am of the opinion that a subdivision should include in the general levy for current expenses the amount required for the payment of final judgments and that such levy is within the fifteen mill limitation, and further that the annual tax budget prepared by the taxing authority of the subdivision must, under Section 5625-21, General Code, show the amounts required to pay final judgments. I am further of the opinion that if the judgments sought to be paid were rendered against the subdivision in actions for personal injuries or were based on other non-contractual obligations, then, and in that event, bonds may be issued to pay such final judgments without a vote of the electors as provided in the Uniform Bond Act.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1813.

APPROVAL, LEASE FOR OFFICE ROOMS FOR USE OF THE STATE
FIRE MARSHAL IN THE FIRST NATIONAL BUILDING, COLUMBUS,
OHIO.

COLUMBUS, OHIO, April 25, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a lease granting to you as Superintendent of Public Works, for the use of the Department of Commerce (State Fire Marshal), certain office rooms as follows:

Lease from the First Citizens Trust Company of Columbus, Ohio, for Rooms numbers 410 to 420, inclusive, in the First National Building, Columbus, Ohio. This lease is for a term of one year, beginning on the first day of May, 1930, and ending on the thirtieth day of April, 1931, by the terms of which the State will be required to pay three hundred and seventy-five dollars (\$375.00) per month on the first day of each and every month, in advance.

You have also submitted encumbrance estimate No. 483, signed by the Director of Finance, made in pursuance of Section 2288-2, General Code.

You have further submitted a certificate of a directors' meeting, showing that the president of said company was authorized to enter into this lease for the company.

Finding said lease in proper legal form, I hereby approve it as to form, and return it herewith, together with all other papers submitted in connection therewith.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1814.

PREPARATION OF LEASE—DUTY OF PROSECUTING ATTORNEY TO
DRAFT LEASE FOR TOWNSHIP HALL NOT NEEDED FOR TOWNSHIP
PURPOSES WITHOUT ADDITIONAL COMPENSATION.

SYLLABUS:

It is a part of the official duties of a prosecuting attorney to prepare a lease for the leasing of a portion of a township hall within the county, not needed for township purposes, when called upon to do so by the board of trustees of the township wherein the hall is located,