

597.

APPROVAL, NOTES OF HUDSON TOWNSHIP RURAL SCHOOL DISTRICT, SUMMIT COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, April 14, 1933.

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

598.

JUDGMENT BONDS—AUTHORITY OF ELECTORS—NOT NECESSARY UNDER G. C. SEC. 2293-3—PAYABLE BY TAX LEVY INSIDE FIFTEEN MILL LIMITATION.

SYLLABUS:

Judgment bonds issued under Section 2293-3, General Code, may be issued without authority of the electors regardless of the net indebtedness of a subdivision, and when so issued are payable by a levy of taxes inside the fifteen mill limitation.

COLUMBUS, OHIO, April 15, 1933.

HON. JOHN W. BOLIN, *Prosecuting Attorney, Athens, Ohio.*

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

“May I have your opinion upon the following question:

Recently Athens County was sued and judgment recovered against said county for the sum of \$5000.00 in three suits filed by men injured in connection with the mine strike. Section 2293-3 provides for the issuing of bonds to pay final judgments in personal injury cases filed against the county or subdivisions. Also Section 2293-13 provides that bonds issued for final judgments in personal injury cases shall not be included in figuring the net indebtedness.

The auditor insists that the county has no right to issue bonds for final judgments in personal injury accidents without the vote of the people or outside of the fifteen mill limitation because amended Section 2, Article XII of the Constitution of Ohio, which went into effect January 1st, 1932.

The question I desire your opinion upon is: Can the Commissioners of Athens County when there are no funds available to pay final judgments in personal injury accident cases against the county issue bonds for said purpose outside of the fifteen mill limitation and without the vote of the electors as provided for under Section 2293-3 and Section 2293-13 of the General Code, or does Section 2, Article XII prevent this.”

Section 2293-3, General Code, authorizing the issuance of bonds for the payment of final judgments as therein set forth, contains no provision to the effect

that such bonds shall be payable by a levy of taxes outside the fifteen mill limitation. Section 2293-13, General Code, providing that bonds issued to pay final judgments may be disregarded in calculating the net indebtedness of a subdivision, merely serves to place such bonds beyond the limitations provided in the Uniform Bond Act as to the amount of net indebtedness which may be incurred with or without authority of the electors. The section has no direct bearing upon the status of the levy to meet the interest and principal requirements of the bonds therein referred to. Of course, in the event bonds are issued pursuant to authority of the electors, they are payable by a levy of taxes outside the fifteen mill limitation.

Since the amendment of Section 2, Article XII of the Constitution, effective January 1, 1931, unless provided for by the charter of a municipal corporation or unless approved by at least a majority of the electors, levies to meet the principal and interest requirements of all bonds of Ohio subdivisions are within the fifteen mill limitation. The amendment of this section of the Constitution, however, has not affected the status of final judgment bonds authorized without authority of the electors pursuant to the provisions of Section 2293-3, General Code, for the reason that such bonds were payable by levies inside the fifteen mill limitation prior to January 1, 1931.

In view of the foregoing and in specific answer to your question, I am of the opinion that judgment bonds issued under Section 2293-3, General Code, may be issued without authority of the electors regardless of the net indebtedness of a subdivision, and when so issued are payable by a levy of taxes inside the fifteen mill limitation.

Respectfully,

JOHN W. BRICKER,
Attorney General.

599.

LEASE—MARKET EXCHANGE BANK TO STATE OF OHIO OF OHIO-HARTMAN BUILDING VALID—LEGISLATURE APPROPRIATIONS FOR SAME—LEASE EFFECTIVE IF LESSOR FAILS TO EXERCISE OPTION TO TERMINATE WHEN—CERTIFICATION BY DIRECTOR OF FINANCE MANDATORY.

SYLLABUS:

1. *The provision in the lease from The Market Exchange Bank to the State of Ohio of the Hartman-Ohio Building, whereby the obligation of the State to make the stipulated rental payments is conditioned upon appropriations by the General Assembly, is valid.*
2. *Unless and until the lessor exercises its option under the lease to terminate same upon the failure of the State to make rental payments as they accrue, the legislature may continue to make appropriations for such payments, in which case the lease will remain effective.*
3. *Unless the legislature makes an appropriation to meet such payments, there are no funds available for that purpose.*

COLUMBUS, OHIO, April 15, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—I have your letter of recent date which reads as follows: